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LEGISLATIVE HISTORY

Public Law 85-630

H.R. 6006

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INDEX AND SUMMARY OF H. R. 6006

- Feb. 20, 1957 Representatives Bailey, Forand, Mack, and Mason introduced H. R. 5102, 5120, 5138, 5139 respectively which were referred to House Ways and Means Committee Prints of bills.
- Feb. 21, 1957 Rep. Jenkins introduced H. R. 5202 which was referred to House Ways and Means Committee. Print of bill.
- March 14, 1957 Reps. Reed and Cooper introduced H. R. 6007 and H. R. 6006 which were referred to House Ways and Means Committee. Prints of bills.
- March 21, 1957 Senator Magnuson introduced S. 1671 which was referred to Senate Finance Committee. Print of bill.
- April 12, 1957 Senator Byrd introduced S. 1671 which was referred to Senate Finance Committee. Print of bill.
- May 8, 1957 Rep. Bailey discussed H. R. 5102 which he introduced Feb., 20, 1958.
- Aug. 27, 1957 House Committee reported H. R. 6006 with amendment. Print of bill and House Report No. 1261.
- Aug. 29, 1957 House passed H. R. 6006 with amendment.
- Aug. 30, 1957 H. R. 6006 was referred to Senate Finance Committee. Print of bill as referred.
- May 20, 1958 Senate committee ordered H. R. 6006 reported with amendments.
- May 21, 1958 Senate committee reported H. R. 6006 with amendments. Print of bill and and Senate Report No. 1619.
- May 26, 1958 Senate passed H. R. 6006 with amendments.
- July 1, 1958 House conferees were appointed on H. R. 6006.
- July 7, 1958 Senate conferees were appointed.
- Aug. 1, 1958 House received conference report on H. R. 6006. Print of House Report 2352.
- Aug. 4, 1958 Senate agreed to conference report.
- Aug. 7, 1958 House agreed to conference report.
- Aug. 14, 1958 Approved: Public Law 85-630.

House hearings were held on July 29, 30, and 31, 1957.

Senate hearings were held on March 26 and 27, 1958.

DIGEST OF PUBLIC LAW 85-630

AMENDMENTS TO ANTIDUMPING ACT. Amends the Antidumping Act of 1921 so as to provide greater efficiency in enforcing provisions for the protection of domestic industries from foreign goods sold at less than a fair value. Includes provisions revising methods for determining foreign market values and constructed values of imported merchandise, requiring publication of certain information in the Federal Register, and redefining certain terms used in the Act.

85TH CONGRESS
1ST SESSION

H. R. 5102

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1957

Mr. BAILEY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 “DUMPING INVESTIGATION

6 “SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives, or by
10 the Committee on Finance of the Senate, upon his own

1 motion, upon notice of suspected dumping from any apprais-
2 ing officer or upon the application of any interested party,
3 shall cause an immediate investigation to be made by the
4 Commissioner of Customs (under such rules and regulations
5 as he may promulgate) to determine whether a class or
6 kind of foreign merchandise is being, or is likely to be, sold
7 in the United States or elsewhere at less than its fair value,
8 and such investigation shall be completed and a public
9 report thereon made not later than ninety days after the date
10 of such resolution, motion, notice, or application.

11 “(2) In the course of any such investigation the Com-
12 missioner of Customs shall hold hearings, giving reasonable
13 public notice thereof, and shall afford reasonable opportunity
14 for interested parties to be present, to present evidence, and
15 to be heard at such hearings.

16 “(3) The Secretary after such investigation shall make
17 public the findings thereof and if the finding is in the affirm-
18 ative it shall include a description of the class or kind of
19 merchandise to which it applies in such detail as may be
20 necessary for the guidance of customs officers; or if in the
21 negative, it shall include a statement of all the evidence or
22 other information on which such finding is based.

23 “(4) In making a determination under this subsection,
24 the Commissioner of Customs shall make his determination
25 on such evidence as may be available and shall find that

1 merchandise is being, or is likely to be, sold in the United
2 States at less than its fair value if the purchase price, or the
3 exporter's sale price, is less or likely to be less than its
4 foreign market value (or, in the absence of such value, than
5 the cost of its production).

6 “(b) Whenever, in the case of any imported merchan-
7 dise of a class or kind as to which the Secretary has not
8 made public a finding, the appraiser or person acting as
9 appraiser has reason to believe or suspect, from the invoice
10 or other papers or from information presented to him, that
11 the purchase price or exporter's sales price is less, or is likely
12 to be less, than the foreign market value (or, in the absence
13 of such value, than the cost of production), he shall forth-
14 with notify the Secretary of such fact and the Secretary
15 shall forthwith direct, under such regulations as he may
16 prescribe, the withholding of appraisement reports as to
17 such merchandise entered or withdrawn from warehouse,
18 for consumption, until the Secretary has made public his
19 report and findings as provided for in subsection (a) of this
20 section in regard to such merchandise.”

21 SEC. 2. Section 202 of the Antidumping Act, 1921, is
22 amended to read as follows:

23 “SPECIAL DUMPING DUTY

24 “SEC. 202. (a) In the case of all imported merchandise,
25 whether dutiable or free of duty, of a class or kind as to which

1 the Secretary has made public an affirmative finding as pro-
2 vided in section 201, and as to which the appraiser or person
3 acting as appraiser has made no appraisement report to the
4 collector before such finding has been so made public, if the
5 purchase price or the exporter's sale price is less than the
6 foreign market value (or, in the absence of such value, than
7 the cost of production) there shall be levied, collected, and
8 paid, in addition to the duties imposed thereon by law, a
9 special dumping duty in an amount equal to such difference:
10 *Provided, however,* That no such additional duty shall be
11 collected if the United States Tariff Commission, within thirty
12 days from the date of such published affirmative finding, shall
13 have found and publicly certified to the Secretary that there
14 is no significant production of like, similar, or competitive
15 merchandise existing or developing in the United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported, that
18 the amount of such difference between the purchase price or
19 the exporter's sale price and the foreign market value is
20 wholly or partly due to the fact that the wholesale quantities,
21 in which such or similar merchandise is sold or offered for
22 sale to purchasers at wholesale for exportation to the United
23 States in the ordinary course of trade, are greater than the
24 wholesale quantities in which such or similar merchandise is
25 sold or offered for sale to purchasers at wholesale in the

1 country of origin in the ordinary course of trade for home
2 consumption (or, if the foreign market value has been deter-
3 mined under section 205 upon the basis of sales or offers for
4 sale otherwise than for home consumption, then the whole-
5 sale quantities in which such or similar merchandise is so sold
6 or offered for sale), then due allowance shall be made there-
7 for in determining the foreign market value for the purposes
8 of this section.

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 "PURCHASE PRICE

12 "SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from
24 the place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 cluded in such price, of any export tax imposed by the
2 country of origin on the exportation of the merchandise to
3 the United States; and plus, to the extent the amounts spec-
4 ified in clauses (1) and (2) below are included in the cal-
5 culation of the foreign market value, or cost of production,
6 as the case may be, with which the purchase price is to be
7 compared, (1) the amount of any import duties imposed by
8 the country of origin which have been rebated, or which
9 have not been collected, by reason of the exportation of the
10 merchandise to the United States; and (2) the amount of
11 any taxes imposed in the country of origin upon the manu-
12 facturer, producer, or seller, in respect to the manufacture,
13 production, or sale of the merchandise, which have been
14 rebated, or which have not been collected, by reason of the
15 exportation of the merchandise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser
23 of such merchandise or any person associated in business
24 with him except for the relationship created by the purchase
25 or sale; and (3) that no part of the proceeds of any sub-

1 sequent resale, use, or disposal of the goods will accrue
2 either directly or indirectly to the seller or any person
3 associated in business with him: *Provided, however, That*
4 if such price does not fulfill the conditions set forth in clause
5 (1), (2), or (3), above, the Secretary shall adjust such
6 price to reflect the failure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

9 “EXPORTER’S SALES PRICE

10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by
14 or for the account of the exporter, plus, when not included
15 in such price, the cost of all containers and coverings and
16 all other costs, charges, and expenses incident to placing
17 the merchandise in condition, packed ready for shipment
18 to the United States, less (1) the amount, if any, included
19 in such price, attributable to any additional costs, charges,
20 and expenses, and United States import duties, incident to
21 bringing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for
24 selling in the United States the particular merchandise
25 under consideration, (3) an amount equal to the expenses,

1 if any, generally incurred by or for the account of the ex-
2 porter in the United States in selling such or similar mer-
3 chandise, and (4) the amount of any export tax imposed
4 by the country of origin on the exportation of the merchan-
5 dise to the United States; and plus, to the extent the
6 amounts specified in clauses (A) and (B), below, are
7 included in the calculation of the foreign market value, or
8 cost of production, as the case may be, with which the
9 exporter's sales price is to be compared, (A) the amount
10 of any export duties imposed by the country of origin which
11 have been related, or which have not been collected, by
12 reason of the exportation of the merchandise to the United
13 States; and (B) the amount of any taxes imposed in the
14 country of origin upon the manufacturer, producer, or seller,
15 in respect to the manufacture, production, or sale of the
16 merchandise, which have been rebated, or which have not
17 been collected, by reason of the exportation of the merchan-
18 dise to the United States."

19 SEC. 5. Section 205 of the Antidumping Act, 1921, is
20 amended to read as follows:

21 "FOREIGN MARKET VALUE

22 "SEC. 205. For the purposes of this title the foreign
23 market value of imported merchandise shall be the price
24 (to be determined on such evidence as may be available),
25 at or about the time of exportation of such merchandise to

1 the United States, at which such or similar merchandise is
2 sold or offered for sale (regardless of restrictions of any
3 type, including restrictions as to disposition or use) to pur-
4 chasers at wholesale in the country of origin, in the ordinary
5 course of trade for home consumption plus, when not in-
6 cluded in such price, the cost of all containers and coverings
7 and all other costs, charges, and expenses incident to placing
8 the merchandise in condition, packed ready for shipment to
9 the United States, except that in the case of merchandise
10 purchased or agreed to be purchased by the person by whom
11 or for whose account the merchandise is imported, prior to
12 the time of exportation, the foreign market value shall be
13 ascertained as of or about the date of such purchase or agree-
14 ment to purchase. If such or similar merchandise is not so
15 sold or offered for sale for home consumption or if the quan-
16 tity so sold or offered for sale for home consumption in rela-
17 tion to the quantity sold or offered for sale for exportation
18 otherwise than to the United States is so small at or about
19 the time of exportation as to be a totally inadequate basis
20 for comparison, then the foreign market value of the im-
21 ported merchandise shall be the price, subject to the same
22 adjustments as the price for home consumption, at which
23 such or similar merchandise is sold or offered for sale other-
24 wise than for exportation to the United States. In the
25 ascertainment of foreign market value for the purposes of

1 this title a determination shall be made on the best avail-
2 able evidence and no pretended sale or offer for sale, and
3 no sale or offer for sale intended to establish a fictitious
4 market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined
10 on such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any
12 internal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating,
16 manipulating, or other process employed in manufac-
17 turing or producing such or similar merchandise at a
18 time preceding the date of shipment of the particular
19 merchandise under consideration which would ordinarily
20 permit the manufacture or production of the particular
21 merchandise under consideration in the usual course of
22 business;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

“(3) an addition for profit (not less than 10 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of such or similar merchandise by manufacturers or purchasers in the country of origin who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration; and

“(4) the cost of all containers and coverings and all other costs and expenses incident to placing such or similar merchandise in condition, packed ready for shipment to the United States.

“(b) For the purposes of this section and section 205, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if

1 the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are—

4 “(1) members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse,
6 ancestors, and lineal descendants;

7 “(2) any officer or director of an organization and
8 such organization;

9 “(3) partners;

10 “(4) employer and employee;

11 “(5) any person directly or indirectly owning,
12 controlling, or holding with power to vote 5 per centum
13 or more of the outstanding voting stock or shares of any
14 organization and such organization; and

15 “(6) two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with any person.”

18 SEC. 7. The Antidumping Act, 1921, is further
19 amended by repealing sections 213 and 214 thereof and by
20 adding at the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without
12 further processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of pro-
16 duction, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dis-
8 satisfied with a finding of the Secretary of the Treasury
9 under this title may appeal to the United States Court of
10 Customs and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies
22 of all the reports and findings in the case specified by the
23 appellant and all evidence or other information considered
24 by the Commissioner of Customs or the Secretary in reach-
25 ing the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

85TH CONGRESS
1ST SESSION

H. R. 5102

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. BAILEY

FEBRUARY 20, 1957

Referred to the Committee on Ways and Means

85TH CONGRESS
1ST SESSION

H. R. 5120

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1957

Mr. FORAND introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 “DUMPING INVESTIGATION

6 “SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives, or by
10 the Committee on Finance of the Senate, upon his own

1 motion, upon notice of suspected dumping from any apprais-
2 ing officer or upon the application of any interested party,
3 shall cause an immediate investigation to be made by the
4 Commissioner of Customs (under such rules and regulations
5 as he may promulgate) to determine whether a class or
6 kind of foreign merchandise is being, or is likely to be, sold
7 in the United States or elsewhere at less than its fair value,
8 and such investigation shall be completed and a public
9 report thereon made not later than ninety days after the date
10 of such resolution, motion, notice, or application.

11 “(2) In the course of any such investigation the Com-
12 missioner of Customs shall hold hearings, giving reasonable
13 public notice thereof, and shall afford reasonable opportunity
14 for interested parties to be present, to present evidence, and
15 to be heard at such hearings.

16 “(3) The Secretary after such investigation shall make
17 public the findings thereof and if the finding is in the affirm-
18 ative it shall include a description of the class or kind of
19 merchandise to which it applies in such detail as may be
20 necessary for the guidance of customs officers; or if in the
21 negative, it shall include a statement of all the evidence or
22 other information on which such finding is based.

23 “(4) In making a determination under this subsection,
24 the Commissioner of Customs shall make his determination
25 on such evidence as may be available and shall find that

1 merchandise is being, or is likely to be, sold in the United
2 States at less than its fair value if the purchase price, or the
3 exporter's sale price, is less or likely to be less than its
4 foreign market value (or, in the absence of such value, than
5 the cost of its production).

6 “(b) Whenever, in the case of any imported merchan-
7 dise of a class or kind as to which the Secretary has not
8 made public a finding, the appraiser or person acting as
9 appraiser has reason to believe or suspect, from the invoice
10 or other papers or from information presented to him, that
11 the purchase price or exporter's sales price is less, or is likely
12 to be less, than the foreign market value (or, in the absence
13 of such value, than the cost of production), he shall forth-
14 with notify the Secretary of such fact and the Secretary
15 shall forthwith direct, under such regulations as he may
16 prescribe, the withholding of appraisement reports as to
17 such merchandise entered or withdrawn from warehouse,
18 for consumption, until the Secretary has made public his
19 report and findings as provided for in subsection (a) of this
20 section in regard to such merchandise.”

21 SEC. 2. Section 202 of the Antidumping Act, 1921, is
22 amended to read as follows:

23 “SPECIAL DUMPING DUTY

24 “SEC. 202. (a) In the case of all imported merchandise,
25 whether dutiable or free of duty, of a class or kind as to which

1 the Secretary has made public an affirmative finding as pro-
2 vided in section 201, and as to which the appraiser or person
3 acting as appraiser has made no appraisement report to the
4 collector before such finding has been so made public, if the
5 purchase price or the exporter's sale price is less than the
6 foreign market value (or, in the absence of such value, than
7 the cost of production) there shall be levied, collected, and
8 paid, in addition to the duties imposed thereon by law, a
9 special dumping duty in an amount equal to such difference:
10 *Provided, however,* That no such additional duty shall be
11 collected if the United States Tariff Commission, within thirty
12 days from the date of such published affirmative finding, shall
13 have found and publicly certified to the Secretary that there
14 is no significant production of like, similar, or competitive
15 merchandise existing or developing in the United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported, that
18 the amount of such difference between the purchase price or
19 the exporter's sale price and the foreign market value is
20 wholly or partly due to the fact that the wholesale quantities,
21 in which such or similar merchandise is sold or offered for
22 sale to purchasers at wholesale for exportation to the United
23 States in the ordinary course of trade, are greater than the
24 wholesale quantities in which such or similar merchandise is
25 sold or offered for sale to purchasers at wholesale in the

1 country of origin in the ordinary course of trade for home
2 consumption (or, if the foreign market value has been deter-
3 mined under section 205 upon the basis of sales or offers for
4 sale otherwise than for home consumption, then the whole-
5 sale quantities in which such or similar merchandise is so sold
6 or offered for sale), then due allowance shall be made there-
7 for in determining the foreign market value for the purposes
8 of this section.

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 "PURCHASE PRICE

12 "SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from
24 the place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 eluded in such price, of any export tax imposed by the
2 country of origin on the exportation of the merchandise to
3 the United States; and plus, to the extent the amounts spec-
4 ified in clauses (1) and (2) below are included in the cal-
5 culation of the foreign market value, or cost of production,
6 as the case may be, with which the purchase price is to be
7 compared, (1) the amount of any import duties imposed by
8 the country of origin which have been rebated, or which
9 have not been collected, by reason of the exportation of the
10 merchandise to the United States; and (2) the amount of
11 any taxes imposed in the country of origin upon the manu-
12 facturer, producer, or seller, in respect to the manufacture,
13 production, or sale of the merchandise, which have been
14 rebated, or which have not been collected, by reason of the
15 exportation of the merchandise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser
23 of such merchandise or any person associated in business
24 with him except for the relationship created by the purchase
25 or sale; and (3) that no part of the proceeds of any sub-

1 sequent resale, use, or disposal of the goods will accrue
2 either directly or indirectly to the seller or any person
3 associated in business with him: *Provided, however, That*
4 if such price does not fulfill the conditions set forth in clause
5 (1), (2), or (3), above, the Secretary shall adjust such
6 price to reflect the failure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

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10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by
14 or for the account of the exporter, plus, when not included
15 in such price, the cost of all containers and coverings and
16 all other costs, charges, and expenses incident to placing
17 the merchandise in condition, packed ready for shipment
18 to the United States, less (1) the amount, if any, included
19 in such price, attributable to any additional costs, charges,
20 and expenses, and United States import duties, incident to
21 bringing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for
24 selling in the United States the particular merchandise
25 under consideration, (3) an amount equal to the expenses,

1 if any, generally incurred by or for the account of the ex-
2 porter in the United States in selling such or similar mer-
3 chandise, and (4) the amount of any export tax imposed
4 by the country of origin on the exportation of the merchan-
5 dise to the United States; and plus, to the extent the
6 amounts specified in clauses (A) and (B), below, are
7 included in the calculation of the foreign market value, or
8 cost of production, as the case may be, with which the
9 exporter's sales price is to be compared, (A) the amount
10 of any export duties imposed by the country of origin which
11 have been related, or which have not been collected, by
12 reason of the exportation of the merchandise to the United
13 States; and (B) the amount of any taxes imposed in the
14 country of origin upon the manufacturer, producer, or seller,
15 in respect to the manufacture, production, or sale of the
16 merchandise, which have been rebated, or which have not
17 been collected, by reason of the exportation of the merchan-
18 dise to the United States."

19 SEC. 5. Section 205 of the Antidumping Act, 1921, is
20 amended to read as follows:

21 "FOREIGN MARKET VALUE

22 "SEC. 205. For the purposes of this title the foreign
23 market value of imported merchandise shall be the price
24 (to be determined on such evidence as may be available),
25 at or about the time of exportation of such merchandise to

1 the United States, at which such or similar merchandise is
2 sold or offered for sale (regardless of restrictions of any
3 type, including restrictions as to disposition or use) to pur-
4 chasers at wholesale in the country of origin, in the ordinary
5 course of trade for home consumption plus, when not in-
6 cluded in such price, the cost of all containers and coverings
7 and all other costs, charges, and expenses incident to placing
8 the merchandise in condition, packed ready for shipment to
9 the United States, except that in the case of merchandise
10 purchased or agreed to be purchased by the person by whom
11 or for whose account the merchandise is imported, prior to
12 the time of exportation, the foreign market value shall be
13 ascertained as of or about the date of such purchase or agree-
14 ment to purchase. If such or similar merchandise is not so
15 sold or offered for sale for home consumption or if the quan-
16 tity so sold or offered for sale for home consumption in rela-
17 tion to the quantity sold or offered for sale for exportation
18 otherwise than to the United States is so small at or about
19 the time of exportation as to be a totally inadequate basis
20 for comparison, then the foreign market value of the im-
21 ported merchandise shall be the price, subject to the same
22 adjustments as the price for home consumption, at which
23 such or similar merchandise is sold or offered for sale other-
24 wise than for exportation to the United States. In the
25 ascertainment of foreign market value for the purposes of

1 this title a determination shall be made on the best avail-
2 able evidence and no pretended sale or offer for sale, and
3 no sale or offer for sale intended to establish a fictitious
4 market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined
10 on such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any
12 internal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating,
16 manipulating, or other process employed in manufac-
17 turing or producing such or similar merchandise at a
18 time preceding the date of shipment of the particular
19 merchandise under consideration which would ordinarily
20 permit the manufacture or production of the particular
21 merchandise under consideration in the usual course of
22 business;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

1 “(3) an addition for profit (not less than 10 per
2 centum of the sum of the amounts found under para-
3 graphs (1) and (2)) equal to the profit which is
4 ordinarily added, in the case of such or similar mer-
5 chandise by manufacturers or purchasers in the country
6 of origin who are engaged in the same general trade
7 as the manufacturer or producer of the particular mer-
8 chandise under consideration; and

9 “(4) the cost of all containers and coverings and
10 all other costs and expenses incident to placing such or
11 similar merchandise in condition, packed ready for ship-
12 ment to the United States.

13 “(b) For the purposes of this section and section 205,
14 a transaction directly or indirectly between persons speci-
15 fied in any one of the paragraphs in subsection (c) of this
16 section may be disregarded if, in the case of any element of
17 value required to be considered, the amount representing
18 that element does not fairly reflect the amount usually
19 reflected in sales in the market under consideration of mer-
20 chandise of the same general class or kind as the merchandise
21 under consideration. If a transaction is disregarded under
22 the preceding sentence and there are no other transactions
23 available for consideration, then the determination of the
24 amount required to be considered shall be based on the best
25 evidence available as to what the amount would have been if

1 the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are—

4 “(1) members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse,
6 ancestors, and lineal descendants;

7 “(2) any officer or director of an organization and
8 such organization;

9 “(3) partners;

10 “(4) employer and employee;

11 “(5) any person directly or indirectly owning,
12 controlling, or holding with power to vote 5 per centum
13 or more of the outstanding voting stock or shares of any
14 organization and such organization; and

15 “(6) two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with any person.”

18 SEC. 7. The Antidumping Act, 1921, is further
19 amended by repealing sections 213 and 214 thereof and by
20 adding at the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without
12 further processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of pro-
16 duction, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dis-
8 satisfied with a finding of the Secretary of the Treasury
9 under this title may appeal to the United States Court of
10 Customs and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies
22 of all the reports and findings in the case specified by the
23 appellant and all evidence or other information considered
24 by the Commissioner of Customs or the Secretary in reach-
25 ing the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

85TH CONGRESS
1ST Session

H. R. 5120

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. FORAND

FEBRUARY 20, 1957

Referred to the Committee on Ways and Means

85TH CONGRESS
1ST SESSION

H. R. 5138

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1957

Mr. MACK of Washington introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 “DUMPING INVESTIGATION

6 “SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives, or by
10 the Committee on Finance of the Senate, upon his own

1 motion, upon notice of suspected dumping from any apprais-
2 ing officer or upon the application of any interested party,
3 shall cause an immediate investigation to be made by the
4 Commissioner of Customs (under such rules and regulations
5 as he may promulgate) to determine whether a class or
6 kind of foreign merchandise is being, or is likely to be, sold
7 in the United States or elsewhere at less than its fair value,
8 and such investigation shall be completed and a public
9 report thereon made not later than ninety days after the date
10 of such resolution, motion, notice, or application.

11 “(2) In the course of any such investigation the Com-
12 missioner of Customs shall hold hearings, giving reasonable
13 public notice thereof, and shall afford reasonable opportunity
14 for interested parties to be present, to present evidence, and
15 to be heard at such hearings.

16 “(3) The Secretary after such investigation shall make
17 public the findings thereof and if the finding is in the affirm-
18 ative it shall include a description of the class or kind of
19 merchandise to which it applies in such detail as may be
20 necessary for the guidance of customs officers; or if in the
21 negative, it shall include a statement of all the evidence or
22 other information on which such finding is based.

23 “(4) In making a determination under this subsection,
24 the Commissioner of Customs shall make his determination
25 on such evidence as may be available and shall find that

1 merchandise is being, or is likely to be, sold in the United
2 States at less than its fair value if the purchase price, or the
3 exporter's sale price, is less or likely to be less than its
4 foreign market value (or, in the absence of such value, than
5 the cost of its production).

6 “(b) Whenever, in the case of any imported merchan-
7 dise of a class or kind as to which the Secretary has not
8 made public a finding, the appraiser or person acting as
9 appraiser has reason to believe or suspect, from the invoice
10 or other papers or from information presented to him, that
11 the purchase price or exporter's sales price is less, or is likely
12 to be less, than the foreign market value (or, in the absence
13 of such value, than the cost of production), he shall forth-
14 with notify the Secretary of such fact and the Secretary
15 shall forthwith direct, under such regulations as he may
16 prescribe, the withholding of appraisement reports as to
17 such merchandise entered or withdrawn from warehouse,
18 for consumption, until the Secretary has made public his
19 report and findings as provided for in subsection (a) of this
20 section in regard to such merchandise.”

21 SEC. 2. Section 202 of the Antidumping Act, 1921, is
22 amended to read as follows:

23 “SPECIAL DUMPING DUTY

24 “SEC. 202. (a) In the case of all imported merchandise,
25 whether dutiable or free of duty, of a class or kind as to which

1 the Secretary has made public an affirmative finding as pro-
2 vided in section 201, and as to which the appraiser or person
3 acting as appraiser has made no appraisement report to the
4 collector before such finding has been so made public, if the
5 purchase price or the exporter's sale price is less than the
6 foreign market value (or, in the absence of such value, than
7 the cost of production) there shall be levied, collected, and
8 paid, in addition to the duties imposed thereon by law, a
9 special dumping duty in an amount equal to such difference:
10 *Provided, however,* That no such additional duty shall be
11 collected if the United States Tariff Commission, within thirty
12 days from the date of such published affirmative finding, shall
13 have found and publicly certified to the Secretary that there
14 is no significant production of like, similar, or competitive
15 merchandise existing or developing in the United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported, that
18 the amount of such difference between the purchase price or
19 the exporter's sale price and the foreign market value is
20 wholly or partly due to the fact that the wholesale quantities,
21 in which such or similar merchandise is sold or offered for
22 sale to purchasers at wholesale for exportation to the United
23 States in the ordinary course of trade, are greater than the
24 wholesale quantities in which such or similar merchandise is
25 sold or offered for sale to purchasers at wholesale in the

1 country of origin in the ordinary course of trade for home
2 consumption (or, if the foreign market value has been deter-
3 mined under section 205 upon the basis of sales or offers for
4 sale otherwise than for home consumption, then the whole-
5 sale quantities in which such or similar merchandise is so sold
6 or offered for sale), then due allowance shall be made there-
7 for in determining the foreign market value for the purposes
8 of this section.

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 "PURCHASE PRICE

12 "SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from
24 the place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 cluded in such price, of any export tax imposed by the
2 country of origin on the exportation of the merchandise to
3 the United States; and plus, to the extent the amounts spec-
4 ified in clauses (1) and (2) below are included in the cal-
5 culation of the foreign market value, or cost of production,
6 as the case may be, with which the purchase price is to be
7 compared, (1) the amount of any import duties imposed by
8 the country of origin which have been rebated, or which
9 have not been collected, by reason of the exportation of the
10 merchandise to the United States; and (2) the amount of
11 any taxes imposed in the country of origin upon the manu-
12 facturer, producer, or seller, in respect to the manufacture,
13 production, or sale of the merchandise, which have been
14 rebated, or which have not been collected, by reason of the
15 exportation of the merchandise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser
23 of such merchandise or any person associated in business
24 with him except for the relationship created by the purchase
25 or sale; and (3) that no part of the proceeds of any sub-

1 sequent resale, use, or disposal of the goods will accrue
2 either directly or indirectly to the seller or any person
3 associated in business with him: *Provided, however,* That
4 if such price does not fulfill the conditions set forth in clause
5 (1), (2), or (3), above, the Secretary shall adjust such
6 price to reflect the failure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

9 “EXPORTER’S SALES PRICE

10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by
14 or for the account of the exporter, plus, when not included
15 in such price, the cost of all containers and coverings and
16 all other costs, charges, and expenses incident to placing
17 the merchandise in condition, packed ready for shipment
18 to the United States, less (1) the amount, if any, included
19 in such price, attributable to any additional costs, charges,
20 and expenses, and United States import duties, incident to
21 bringing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for
24 selling in the United States the particular merchandise
25 under consideration, (3) an amount equal to the expenses,

1 if any, generally incurred by or for the account of the ex-
2 porter in the United States in selling such or similar mer-
3 chandise, and (4) the amount of any export tax imposed
4 by the country of origin on the exportation of the merchan-
5 dise to the United States; and plus, to the extent the
6 amounts specified in clauses (A) and (B), below, are
7 included in the calculation of the foreign market value, or
8 cost of production, as the case may be, with which the
9 exporter's sales price is to be compared, (A) the amount
10 of any export duties imposed by the country of origin which
11 have been related, or which have not been collected; by
12 reason of the exportation of the merchandise to the United
13 States; and (B) the amount of any taxes imposed in the
14 country of origin upon the manufacturer, producer, or seller,
15 in respect to the manufacture, production, or sale of the
16 merchandise, which have been rebated, or which have not
17 been collected, by reason of the exportation of the merchan-
18 dise to the United States."

19 SEC. 5. Section 205 of the Antidumping Act, 1921, is
20 amended to read as follows:

21 "FOREIGN MARKET VALUE

22 "SEC. 205. For the purposes of this title the foreign
23 market value of imported merchandise shall be the price
24 (to be determined on such evidence as may be available),
25 at or about the time of exportation of such merchandise to

1 the United States, at which such or similar merchandise is
2 sold or offered for sale (regardless of restrictions of any
3 type, including restrictions as to disposition or use) to pur-
4 chasers at wholesale in the country of origin, in the ordinary
5 course of trade for home consumption plus, when not in-
6 cluded in such price, the cost of all containers and coverings
7 and all other costs, charges, and expenses incident to placing
8 the merchandise in condition, packed ready for shipment to
9 the United States, except that in the case of merchandise
10 purchased or agreed to be purchased by the person by whom
11 or for whose account the merchandise is imported, prior to
12 the time of exportation, the foreign market value shall be
13 ascertained as of or about the date of such purchase or agree-
14 ment to purchase. If such or similar merchandise is not so
15 sold or offered for sale for home consumption or if the quan-
16 tity so sold or offered for sale for home consumption in rela-
17 tion to the quantity sold or offered for sale for exportation
18 otherwise than to the United States is so small at or about
19 the time of exportation as to be a totally inadequate basis
20 for comparison, then the foreign market value of the im-
21 ported merchandise shall be the price, subject to the same
22 adjustments as the price for home consumption, at which
23 such or similar merchandise is sold or offered for sale other-
24 wise than for exportation to the United States. In the
25 ascertainment of foreign market value for the purposes of

1 this title a determination shall be made on the best avail-
2 able evidence and no pretended sale or offer for sale, and
3 no sale or offer for sale intended to establish a fictitious
4 market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined
10 on such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any
12 internal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating,
16 manipulating, or other process employed in manufac-
17 turing or producing such or similar merchandise at a
18 time preceding the date of shipment of the particular
19 merchandise under consideration which would ordinarily
20 permit the manufacture or production of the particular
21 merchandise under consideration in the usual course of
22 business;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

1 “(3) an addition for profit (not less than 10 per
2 centum of the sum of the amounts found under para-
3 graphs (1) and (2)) equal to the profit which is
4 ordinarily added, in the case of such or similar mer-
5 chandise by manufacturers or purchasers in the country
6 of origin who are engaged in the same general trade
7 as the manufacturer or producer of the particular mer-
8 chandise under consideration; and

9 “(4) the cost of all containers and coverings and
10 all other costs and expenses incident to placing such or
11 similar merchandise in condition, packed ready for ship-
12 ment to the United States.

13 “(b) For the purposes of this section and section 205,
14 a transaction directly or indirectly between persons speci-
15 fied in any one of the paragraphs in subsection (c) of this
16 section may be disregarded if, in the case of any element of
17 value required to be considered, the amount representing
18 that element does not fairly reflect the amount usually
19 reflected in sales in the market under consideration of mer-
20 chandise of the same general class or kind as the merchandise
21 under consideration. If a transaction is disregarded under
22 the preceding sentence and there are no other transactions
23 available for consideration, then the determination of the
24 amount required to be considered shall be based on the best
25 evidence available as to what the amount would have been if

1 the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c) .

3 “(c) The persons referred to in subsection (b) are—

4 “(1) members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse,
6 ancestors, and lineal descendants;

7 “(2) any officer or director of an organization and
8 such organization;

9 “(3) partners;

10 “(4) employer and employee;

11 “(5) any person directly or indirectly owning,
12 controlling, or holding with power to vote 5 per centum
13 or more of the outstanding voting stock or shares of any
14 organization and such organization; and

15 “(6) two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with any person.”

18 SEC. 7. The Antidumping Act, 1921, is further
19 amended by repealing sections 213 and 214 thereof and by
20 adding at the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without
12 further processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of pro-
16 duction, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dis-
8 satisfied with a finding of the Secretary of the Treasury
9 under this title may appeal to the United States Court of
10 Customs and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies
22 of all the reports and findings in the case specified by the
23 appellant and all evidence or other information considered
24 by the Commissioner of Customs or the Secretary in reach-
25 ing the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

85TH CONGRESS
1ST SESSION

H. R. 5138

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. Mack of Washington

FEBRUARY 20, 1957

Referred to the Committee on Ways and Means

85TH CONGRESS
1ST SESSION

H. R. 5139

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1957

Mr. MASON introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 “DUMPING INVESTIGATION

6 “SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives, or by
10 the Committee on Finance of the Senate, upon his own

1 motion, upon notice of suspected dumping from any apprais-
2 ing officer or upon the application of any interested party,
3 shall cause an immediate investigation to be made by the
4 Commissioner of Customs (under such rules and regulations
5 as he may promulgate) to determine whether a class or
6 kind of foreign merchandise is being, or is likely to be, sold
7 in the United States or elsewhere at less than its fair value,
8 and such investigation shall be completed and a public
9 report thereon made not later than ninety days after the date
10 of such resolution, motion, notice, or application.

11 “(2) In the course of any such investigation the Com-
12 missioner of Customs shall hold hearings, giving reasonable
13 public notice thereof, and shall afford reasonable opportunity
14 for interested parties to be present, to present evidence, and
15 to be heard at such hearings.

16 “(3) The Secretary after such investigation shall make
17 public the findings thereof and if the finding is in the affirm-
18 ative it shall include a description of the class or kind of
19 merchandise to which it applies in such detail as may be
20 necessary for the guidance of customs officers; or if in the
21 negative, it shall include a statement of all the evidence or
22 other information on which such finding is based.

23 “(4) In making a determination under this subsection,
24 the Commissioner of Customs shall make his determination
25 on such evidence as may be available and shall find that

1 merchandise is being, or is likely to be, sold in the United
2 States at less than its fair value if the purchase price, or the
3 exporter's sale price, is less or likely to be less than its
4 foreign market value (or, in the absence of such value, than
5 the cost of its production).

6 “(b) Whenever, in the case of any imported merchan-
7 dise of a class or kind as to which the Secretary has not
8 made public a finding, the appraiser or person acting as
9 appraiser has reason to believe or suspect, from the invoice
10 or other papers or from information presented to him, that
11 the purchase price or exporter's sales price is less, or is likely
12 to be less, than the foreign market value (or, in the absence
13 of such value, than the cost of production), he shall forth-
14 with notify the Secretary of such fact and the Secretary
15 shall forthwith direct, under such regulations as he may
16 prescribe, the withholding of appraisement reports as to
17 such merchandise entered or withdrawn from warehouse,
18 for consumption, until the Secretary has made public his
19 report and findings as provided for in subsection (a) of this
20 section in regard to such merchandise.”

21 SEC. 2. Section 202 of the Antidumping Act, 1921, is
22 amended to read as follows:

23 “SPECIAL DUMPING DUTY

24 “SEC. 202. (a) In the case of all imported merchandise,
25 whether dutiable or free of duty, of a class or kind as to which

1 the Secretary has made public an affirmative finding as pro-
2 vided in section 201, and as to which the appraiser or person
3 acting as appraiser has made no appraisement report to the
4 collector before such finding has been so made public, if the
5 purchase price or the exporter's sale price is less than the
6 foreign market value (or, in the absence of such value, than
7 the cost of production) there shall be levied, collected, and
8 paid, in addition to the duties imposed thereon by law, a
9 special dumping duty in an amount equal to such difference:
10 *Provided, however,* That no such additional duty shall be
11 collected if the United States Tariff Commission, within thirty
12 days from the date of such published affirmative finding, shall
13 have found and publicly certified to the Secretary that there
14 is no significant production of like, similar, or competitive
15 merchandise existing or developing in the United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported, that
18 the amount of such difference between the purchase price or
19 the exporter's sale price and the foreign market value is
20 wholly or partly due to the fact that the wholesale quantities,
21 in which such or similar merchandise is sold or offered for
22 sale to purchasers at wholesale for exportation to the United
23 States in the ordinary course of trade, are greater than the
24 wholesale quantities in which such or similar merchandise is
25 sold or offered for sale to purchasers at wholesale in the

1 country of origin in the ordinary course of trade for home
2 consumption (or, if the foreign market value has been deter-
3 mined under section 205 upon the basis of sales or offers for
4 sale otherwise than for home consumption, then the whole-
5 sale quantities in which such or similar merchandise is so sold
6 or offered for sale), then due allowance shall be made there-
7 for in determining the foreign market value for the purposes
8 of this section.

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 "PURCHASE PRICE

12 "SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from
24 the place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 cluded in such price, of any export tax imposed by the
2 country of origin on the exportation of the merchandise to
3 the United States; and plus, to the extent the amounts spec-
4 ified in clauses (1) and (2) below are included in the cal-
5 culation of the foreign market value, or cost of production,
6 as the case may be, with which the purchase price is to be
7 compared, (1) the amount of any import duties imposed by
8 the country of origin which have been rebated, or which
9 have not been collected, by reason of the exportation of the
10 merchandise to the United States; and (2) the amount of
11 any taxes imposed in the country of origin upon the manu-
12 facturer, producer, or seller, in respect to the manufacture,
13 production, or sale of the merchandise, which have been
14 rebated, or which have not been collected, by reason of the
15 exportation of the merchandise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser
23 of such merchandise or any person associated in business
24 with him except for the relationship created by the purchase
25 or sale; and (3) that no part of the proceeds of any sub-

1 sequent resale, use, or disposal of the goods will accrue
2 either directly or indirectly to the seller or any person
3 associated in business with him: *Provided, however, That*
4 if such price does not fulfill the conditions set forth in clause
5 (1), (2), or (3), above, the Secretary shall adjust such
6 price to reflect the failure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

9 “EXPORTER’S SALES PRICE

10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by
14 or for the account of the exporter, plus, when not included
15 in such price, the cost of all containers and coverings and
16 all other costs, charges, and expenses incident to placing
17 the merchandise in condition, packed ready for shipment
18 to the United States, less (1) the amount, if any, included
19 in such price, attributable to any additional costs, charges,
20 and expenses, and United States import duties, incident to
21 bringing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for
24 selling in the United States the particular merchandise
25 under consideration, (3) an amount equal to the expenses,

1 if any, generally incurred by or for the account of the ex-
2 porter in the United States in selling such or similar mer-
3 chandise, and (4) the amount of any export tax imposed
4 by the country of origin on the exportation of the merchan-
5 dise to the United States; and plus, to the extent the
6 amounts specified in clauses (A) and (B), below, are
7 included in the calculation of the foreign market value, or
8 cost of production, as the case may be, with which the
9 exporter's sales price is to be compared, (A) the amount
10 of any export duties imposed by the country of origin which
11 have been related, or which have not been collected, by
12 reason of the exportation of the merchandise to the United
13 States; and (B) the amount of any taxes imposed in the
14 country of origin upon the manufacturer, producer, or seller,
15 in respect to the manufacture, production, or sale of the
16 merchandise, which have been rebated, or which have not
17 been collected, by reason of the exportation of the merchan-
18 dise to the United States."

19 SEC. 5. Section 205 of the Antidumping Act, 1921, is
20 amended to read as follows:

21 "FOREIGN MARKET VALUE

22 "SEC. 205. For the purposes of this title the foreign
23 market value of imported merchandise shall be the price
24 (to be determined on such evidence as may be available),
25 at or about the time of exportation of such merchandise to

1 the United States, at which such or similar merchandise is
2 sold or offered for sale (regardless of restrictions of any
3 type, including restrictions as to disposition or use) to pur-
4 chasers at wholesale in the country of origin, in the ordinary
5 course of trade for home consumption plus, when not in-
6 cluded in such price, the cost of all containers and coverings
7 and all other costs, charges, and expenses incident to placing
8 the merchandise in condition, packed ready for shipment to
9 the United States, except that in the case of merchandise
10 purchased or agreed to be purchased by the person by whom
11 or for whose account the merchandise is imported, prior to
12 the time of exportation, the foreign market value shall be
13 ascertained as of or about the date of such purchase or agree-
14 ment to purchase. If such or similar merchandise is not so
15 sold or offered for sale for home consumption or if the quan-
16 tity so sold or offered for sale for home consumption in rela-
17 tion to the quantity sold or offered for sale for exportation
18 otherwise than to the United States is so small at or about
19 the time of exportation as to be a totally inadequate basis
20 for comparison, then the foreign market value of the im-
21 ported merchandise shall be the price, subject to the same
22 adjustments as the price for home consumption, at which
23 such or similar merchandise is sold or offered for sale other-
24 wise than for exportation to the United States. In the
25 ascertainment of foreign market value for the purposes of

1 this title a determination shall be made on the best avail-
2 able evidence and no pretended sale or offer for sale, and
3 no sale or offer for sale intended to establish a fictitious
4 market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined
10 on such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any
12 internal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating,
16 manipulating, or other process employed in manufac-
17 turing or producing such or similar merchandise at a
18 time preceding the date of shipment of the particular
19 merchandise under consideration which would ordinarily
20 permit the manufacture or production of the particular
21 merchandise under consideration in the usual course of
22 business;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

“(3) an addition for profit (not less than 10 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of such or similar merchandise by manufacturers or purchasers in the country of origin who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration; and

“(4) the cost of all containers and coverings and all other costs and expenses incident to placing such or similar merchandise in condition, packed ready for shipment to the United States.

“(b) For the purposes of this section and section 205, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if

1 the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are—

4 “(1) members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse,
6 ancestors, and lineal descendants;

7 “(2) any officer or director of an organization and
8 such organization;

9 “(3) partners;

10 “(4) employer and employee;

11 “(5) any person directly or indirectly owning,
12 controlling, or holding with power to vote 5 per centum
13 or more of the outstanding voting stock or shares of any
14 organization and such organization; and

15 “(6) two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with any person.”

18 SEC. 7. The Antidumping Act, 1921, is further
19 amended by repealing sections 213 and 214 thereof and by
20 adding at the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without
12 further processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of pro-
16 duction, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dis-
8 satisfied with a finding of the Secretary of the Treasury
9 under this title may appeal to the United States Court of
10 Customs and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies
22 of all the reports and findings in the case specified by the
23 appellant and all evidence or other information considered
24 by the Commissioner of Customs or the Secretary in reach-
25 ing the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. MASON

FEBRUARY 20, 1957

Referred to the Committee on Ways and Means

85TH CONGRESS
1ST SESSION

H. R. 5202

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1957

Mr. JENKINS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 "DUMPING INVESTIGATION

6 "SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives, or by
10 the Committee on Finance of the Senate, upon his own

1 motion, upon notice of suspected dumping from any apprais-
2 ing officer or upon the application of any interested party,
3 shall cause an immediate investigation to be made by the
4 Commissioner of Customs (under such rules and regulations
5 as he may promulgate) to determine whether a class or
6 kind of foreign merchandise is being, or is likely to be, sold
7 in the United States or elsewhere at less than its fair value,
8 and such investigation shall be completed and a public
9 report thereon made not later than ninety days after the date
10 of such resolution, motion, notice, or application.

11 “(2) In the course of any such investigation the Com-
12 missioner of Customs shall hold hearings, giving reasonable
13 public notice thereof, and shall afford reasonable opportunity
14 for interested parties to be present, to present evidence, and
15 to be heard at such hearings.

16 “(3) The Secretary after such investigation shall make
17 public the findings thereof and if the finding is in the affirm-
18 ative it shall include a description of the class or kind of
19 merchandise to which it applies in such detail as may be
20 necessary for the guidance of customs officers; or if in the
21 negative, it shall include a statement of all the evidence or
22 other information on which such finding is based.

23 “(4) In making a determination under this subsection,
24 the Commissioner of Customs shall make his determination
25 on such evidence as may be available and shall find that

1 merchandise is being, or is likely to be, sold in the United
2 States at less than its fair value if the purchase price, or the
3 exporter's sale price, is less or likely to be less than its
4 foreign market value (or, in the absence of such value, than
5 the cost of its production).

6 “(b) Whenever, in the case of any imported merchan-
7 dise of a class or kind as to which the Secretary has not
8 made public a finding, the appraiser or person acting as
9 appraiser has reason to believe or suspect, from the invoice
10 or other papers or from information presented to him, that
11 the purchase price or exporter's sales price is less, or is likely
12 to be less, than the foreign market value (or, in the absence
13 of such value, than the cost of production), he shall forth-
14 with notify the Secretary of such fact and the Secretary
15 shall forthwith direct, under such regulations as he may
16 prescribe, the withholding of appraisement reports as to
17 such merchandise entered or withdrawn from warehouse,
18 for consumption, until the Secretary has made public his
19 report and findings as provided for in subsection (a) of this
20 section in regard to such merchandise.”

21 SEC. 2. Section 202 of the Antidumping Act, 1921, is
22 amended to read as follows:

23 “SPECIAL DUMPING DUTY

24 “SEC. 202. (a) In the case of all imported merchandise,
25 whether dutiable or free of duty, of a class or kind as to which

1 the Secretary has made public an affirmative finding as pro-
2 vided in section 201, and as to which the appraiser or person
3 acting as appraiser has made no appraisement report to the
4 collector before such finding has been so made public, if the
5 purchase price or the exporter's sale price is less than the
6 foreign market value (or, in the absence of such value, than
7 the cost of production) there shall be levied, collected, and
8 paid, in addition to the duties imposed thereon by law, a
9 special dumping duty in an amount equal to such difference:
10 *Provided, however,* That no such additional duty shall be
11 collected if the United States Tariff Commission, within thirty
12 days from the date of such published affirmative finding, shall
13 have found and publicly certified to the Secretary that there
14 is no significant production of like, similar, or competitive
15 merchandise existing or developing in the United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported, that
18 the amount of such difference between the purchase price or
19 the exporter's sale price and the foreign market value is
20 wholly or partly due to the fact that the wholesale quantities,
21 in which such or similar merchandise is sold or offered for
22 sale to purchasers at wholesale for exportation to the United
23 States in the ordinary course of trade, are greater than the
24 wholesale quantities in which such or similar merchandise is
25 sold or offered for sale to purchasers at wholesale in the

1 country of origin in the ordinary course of trade for home
2 consumption (or, if the foreign market value has been deter-
3 mined under section 205 upon the basis of sales or offers for
4 sale otherwise than for home consumption, then the whole-
5 sale quantities in which such or similar merchandise is so sold
6 or offered for sale), then due allowance shall be made there-
7 for in determining the foreign market value for the purposes
8 of this section.

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 "PURCHASE PRICE

12 "SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from
24 the place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 cluded in such price, of any export tax imposed by the
2 country of origin on the exportation of the merchandise to
3 the United States; and plus, to the extent the amounts spec-
4 ified in clauses (1) and (2) below are included in the cal-
5 culation of the foreign market value, or cost of production,
6 as the case may be, with which the purchase price is to be
7 compared, (1) the amount of any import duties imposed by
8 the country of origin which have been rebated, or which
9 have not been collected, by reason of the exportation of the
10 merchandise to the United States; and (2) the amount of
11 any taxes imposed in the country of origin upon the manu-
12 facturer, producer, or seller, in respect to the manufacture,
13 production, or sale of the merchandise, which have been
14 rebated, or which have not been collected, by reason of the
15 exportation of the merchandise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser
23 of such merchandise or any person associated in business
24 with him except for the relationship created by the purchase
25 or sale; and (3) that no part of the proceeds of any sub-

1 sequent resale, use, or disposal of the goods will accrue
2 either directly or indirectly to the seller or any person
3 associated in business with him: *Provided, however, That*
4 if such price does not fulfill the conditions set forth in clause
5 (1), (2), or (3), above, the Secretary shall adjust such
6 price to reflect the failure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

9 “EXPORTER’S SALES PRICE

10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by
14 or for the account of the exporter, plus, when not included
15 in such price, the cost of all containers and coverings and
16 all other costs, charges, and expenses incident to placing
17 the merchandise in condition, packed ready for shipment
18 to the United States, less (1) the amount, if any, included
19 in such price, attributable to any additional costs, charges,
20 and expenses, and United States import duties, incident to
21 bringing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for
24 selling in the United States the particular merchandise
25 under consideration, (3) an amount equal to the expenses,

1 if any, generally incurred by or for the account of the ex-
 2 porter in the United States in selling such or similar mer-
 3 chandise, and (4) the amount of any export tax imposed
 4 by the country of origin on the exportation of the merchan-
 5 dise to the United States; and plus, to the extent the
 6 amounts specified in clauses (A) and (B), below, are
 7 included in the calculation of the foreign market value, or
 8 cost of production, as the case may be, with which the
 9 exporter's sales price is to be compared, (A) the amount
 10 of any export duties imposed by the country of origin which
 11 have been related, or which have not been collected, by
 12 reason of the exportation of the merchandise to the United
 13 States; and (B) the amount of any taxes imposed in the
 14 country of origin upon the manufacturer, producer, or seller,
 15 in respect to the manufacture, production, or sale of the
 16 merchandise, which have been rebated, or which have not
 17 been collected, by reason of the exportation of the merchan-
 18 dise to the United States."

19 SEC. 5. Section 205 of the Antidumping Act, 1921, is
 20 amended to read as follows:

21 "FOREIGN MARKET VALUE

22 "SEC. 205. For the purposes of this title the foreign
 23 market value of imported merchandise shall be the price
 24 (to be determined on such evidence as may be available),
 25 at or about the time of exportation of such merchandise to

1 the United States, at which such or similar merchandise is
2 sold or offered for sale (regardless of restrictions of any
3 type, including restrictions as to disposition or use) to pur-
4 chasers at wholesale in the country of origin, in the ordinary
5 course of trade for home consumption plus, when not in-
6 cluded in such price, the cost of all containers and coverings
7 and all other costs, charges, and expenses incident to placing
8 the merchandise in condition, packed ready for shipment to
9 the United States, except that in the case of merchandise
10 purchased or agreed to be purchased by the person by whom
11 or for whose account the merchandise is imported, prior to
12 the time of exportation, the foreign market value shall be
13 ascertained as of or about the date of such purchase or agree-
14 ment to purchase. If such or similar merchandise is not so
15 sold or offered for sale for home consumption or if the quan-
16 tity so sold or offered for sale for home consumption in rela-
17 tion to the quantity sold or offered for sale for exportation
18 otherwise than to the United States is so small at or about
19 the time of exportation as to be a totally inadequate basis
20 for comparison, then the foreign market value of the im-
21 ported merchandise shall be the price, subject to the same
22 adjustments as the price for home consumption, at which
23 such or similar merchandise is sold or offered for sale other-
24 wise than for exportation to the United States. In the
25 ascertainment of foreign market value for the purposes of

1 this title a determination shall be made on the best avail-
2 able evidence and no pretended sale or offer for sale, and
3 no sale or offer for sale intended to establish a fictitious
4 market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined
10 on such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any
12 internal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating,
16 manipulating, or other process employed in manufac-
17 turing or producing such or similar merchandise at a
18 time preceding the date of shipment of the particular
19 merchandise under consideration which would ordinarily
20 permit the manufacture or production of the particular
21 merchandise under consideration in the usual course of
22 business;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

“(3) an addition for profit (not less than 10 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of such or similar merchandise by manufacturers or purchasers in the country of origin who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration; and

“(4) the cost of all containers and coverings and all other costs and expenses incident to placing such or similar merchandise in condition, packed ready for shipment to the United States.

“(b) For the purposes of this section and section 205, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if

1 the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are

4 “(1) members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse,
6 ancestors, and lineal descendants;

7 “(2) any officer or director of an organization and
8 such organization;

9 “(3) partners;

10 “(4) employer and employee;

11 “(5) any person directly or indirectly owning,
12 controlling, or holding with power to vote 5 per centum
13 or more of the outstanding voting stock or shares of any
14 organization and such organization; and

15 “(6) two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with any person.”

18 SEC. 7. The Antidumping Act, 1921, is further
19 amended by repealing sections 213 and 214 thereof and by
20 adding at the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without
12 further processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of pro-
16 duction, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dis-
8 satisfied with a finding of the Secretary of the Treasury
9 under this title may appeal to the United States Court of
10 Customs and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies
22 of all the reports and findings in the case specified by the
23 appellant and all evidence or other information considered
24 by the Commissioner of Customs or the Secretary in reach-
25 ing the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. JENKINS

FEBRUARY 21, 1957

Referred to the Committee on Ways and Means

H. R. 6007

IN SENATE,
January 1, 1907.

REPORT

OF THE
COMMISSIONERS OF THE GENERAL LAND OFFICE,
IN RESPONSE TO A RESOLUTION OF THE SENATE,
PASSED MAY 1, 1896.

A BILL

TO AMEND AN ACT, PASSED JULY 1, 1890, CONCERNING THE
LANDS BELONGING TO THE UNITED STATES, AND TO
AMEND AN ACT, PASSED JULY 1, 1890, CONCERNING THE
LANDS BELONGING TO THE UNITED STATES.

Enacted by the Senate and House of Representatives
of the United States of America in Congress assembled,
January 1, 1907.

85TH CONGRESS
1ST SESSION

H. R. 6007

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1957

Mr. REED introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsections (b) and (c) of section 202 of the Anti-
4 dumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are
5 amended to read as follows:

6 “(b) In determining the foreign market value for the
7 purposes of subsection (a), if it is established to the satis-
8 faction of the Secretary or his delegate that the amount of
9 any difference between the purchase price and the foreign
10 market value (or that the fact that the purchase price is

1 the same as the foreign market value) is wholly or partly
2 due to—

3 “(1) the fact that the wholesale quantities, in which
4 such or similar merchandise is sold or, in the absence of
5 sales, offered for sale for exportation to the United States
6 in the ordinary course of trade, are less or are greater
7 than the wholesale quantities in which such or similar
8 merchandise is sold or, in the absence of sales, offered
9 for sale in the principal markets of the country of ex-
10 portation in the ordinary course of trade for home con-
11 sumption (or, if not so sold or offered for sale for home
12 consumption, then for exportation to countries other
13 than the United States),

14 “(2) other differences in circumstances of sale, or

15 “(3) the fact that merchandise described in sub-
16 division (C), (D), (E), or (F) of section 212 (3) is
17 used in determining foreign market value,

18 then due allowance shall be made therefor.

19 “(c) In determining the foreign market value for the
20 purposes of subsection (a), if it is established to the satisfac-
21 tion of the Secretary or his delegate that the amount of any
22 difference between the exporter's sales price and the foreign
23 market value (or that the fact that the exporter's sales price
24 is the same as the foreign market value) is wholly or partly
25 due to—

“(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.”

SEC. 2. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

“FOREIGN MARKET VALUE

“SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets

1 of the country from which exported, in the usual wholesale
2 quantities and in the ordinary course of trade for home con-
3 sumption (or, if not so sold or offered for sale for home con-
4 sumption, or if the Secretary determines that the quantity
5 sold for home consumption is so small in relation to the
6 quantity sold for exportation to countries other than the
7 United States as to form an inadequate basis for comparison,
8 then the price at which so sold or offered for sale for expor-
9 tation to countries other than the United States), plus, when
10 not included in such price, the cost of all containers and
11 coverings and all other costs, charges, and expenses incident
12 to placing the merchandise in condition packed ready for
13 shipment to the United States, except that in the case of
14 merchandise purchased or agreed to be purchased by the
15 person by whom or for whose account the merchandise is
16 imported, prior to the time of exportation, the foreign market
17 value shall be ascertained as of the date of such purchase or
18 agreement to purchase. In the ascertainment of foreign
19 market value for the purposes of this title no pretended sale
20 or offer for sale, and no sale or offer for sale intended to
21 establish a fictitious market, shall be taken into account. If
22 such or similar merchandise is sold or, in the absence of sales,
23 offered for sale through a sales agency or other organization
24 related to the seller in any of the respects described in
25 section 207, the prices at which such or similar merchandise

1 is sold or, in the absence of sales, offered for sale by such sales
2 agency or other organization may be used in determining
3 the foreign market value.”

4 SEC. 3. (a) The heading and text of section 206 of the
5 Antidumping Act, 1921 (19 U. S. C. 165), are amended
6 to read as follows:

7 “CONSTRUCTED VALUE

8 “SEC. 206. (a) For the purposes of this title, the con-
9 structed value of imported merchandise shall be the sum of—

10 “(1) the cost of materials (exclusive of any internal
11 tax applicable in the country of exportation directly to
12 such materials or their disposition, but remitted or
13 refunded upon the exportation of the article in the pro-
14 duction of which such materials are used) and of
15 fabrication or other processing of any kind employed
16 in producing such or similar merchandise, at a time
17 preceding the date of exportation of the merchandise
18 under consideration which would ordinarily permit the
19 production of that particular merchandise in the ordinary
20 course of business;

21 “(2) an amount for general expenses and profit
22 equal to that usually reflected in sales of merchandise
23 of the same general class or kind as the merchandise
24 under consideration which are made by producers in

1 the country of exportation, in the usual wholesale quan-
2 tities and in the ordinary course of trade, except that
3 (A) the amount for general expenses shall not be less
4 than 10 per centum of the cost as defined in paragraph
5 (1), and (B) the amount for profit shall not be less
6 than 8 per centum of the sum of such general expenses
7 and cost; and

8 “(3) the cost of all containers and coverings of
9 whatever nature, and all other expenses incidental to
10 placing the merchandise under consideration in condi-
11 tion, packed ready for shipment to the United States.

12 “(b) For the purposes of this section, a transaction di-
13 rectly or indirectly between persons specified in any one
14 of the paragraphs in subsection (c) of this section may be
15 disregarded if, in the case of any element of value required
16 to be considered, the amount representing that element does
17 not fairly reflect the amount usually reflected in sales in
18 the market under consideration of merchandise of the same
19 general class or kind as the merchandise under consideration.
20 If a transaction is disregarded under the preceding sentence
21 and there are no other transactions available for considera-
22 tion, then the determination of the amount required to be
23 considered shall be based on the best evidence available as
24 to what the amount would have been if the transaction had

1 occurred between persons not specified in any one of the
2 paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are:

4 “(1) Members of a family, including brothers and
5 sisters (whether by the whole or half blood), spouse,
6 ancestors, and lineal descendants;

7 “(2) Any officer or director of an organization
8 and such organization;

9 “(3) Partners;

10 “(4) Employer and employee;

11 “(5) Any person directly or indirectly owning,
12 controlling, or holding with power to vote, 5 per centum
13 or more of the outstanding voting stock or shares of
14 any organization and such organization; and

15 “(6) Two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with, any person.”

18 (b) Sections 201 (b), 202 (a), 209, and 210 of the
19 Antidumping Act, 1921 (19 U. S. C., secs. 160 (b),
20 161 (a), 168, and 169), are amended by striking out
21 “cost of production” each place it appears and inserting in
22 lieu thereof “constructed value”.

23 SEC. 4. Section 212 of the Antidumping Act, 1921 (19

1 U. S. C. 171), is renumbered as section 213, and such Act
2 is amended by inserting after section 211 the following:

3 "Definitions

4 "SEC. 212. For the purposes of this title—

5 " (1) The term 'sold or, in the absence of sales,
6 offered for sale' means sold or, in the absence of sales,
7 offered—

8 " (A) to all purchasers at wholesale, or

9 " (B) in the ordinary course of trade to one or
10 more selected purchasers at wholesale at a price
11 which fairly reflects the market value of the mer-
12 chandise,

13 without regard to restrictions as to the disposition or
14 use of the merchandise by the purchaser except that,
15 where such restrictions are found to affect the market
16 value of the merchandise, adjustment shall be made
17 therefor in calculating the price at which the merchandise
18 is sold or offered for sale.

19 " (2) The term 'ordinary course of trade' means
20 the conditions and practices which, for a reasonable
21 time prior to the exportation of the merchandise under
22 consideration, have been normal in the trade under
23 consideration with respect to merchandise of the same
24 class or kind as the merchandise under consideration.

25 " (3) The term 'such or similar merchandise' means

merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

“(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

“(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

“(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

“(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

“(E) Merchandise (i) produced in the same country and by the same person and of the same class or kind as the merchandise under consideration,

1 (ii) like the merchandise under consideration in the
2 purposes for which used, and (iii) which the Secre-
3 tary or his delegate determines may reasonably be
4 compared for the purposes of this title with the
5 merchandise under consideration.

6 “(F) Merchandise which satisfies all the re-
7 quirements of subdivision (E) except that it was
8 produced by another person.

9 “(4) The term ‘usual wholesale quantities’, in any
10 case in which the merchandise in respect of which value
11 is being determined is sold in the market under consider-
12 ation at different prices for different quantities, means
13 the quantities in which such merchandise is there sold
14 at the price or prices for one quantity in an aggregate
15 volume which is greater than the aggregate volume sold
16 at the price or prices for any other quantity.”

17 SEC. 5. The amendments made by this Act shall apply
18 with respect to all merchandise as to which no appraisement
19 report has been made on or before the date of the enactment
20 of this Act; except that such amendments shall not apply
21 with respect to any merchandise which—

22 (1) was exported from the country of exportation
23 before the date of the enactment of this Act, and

1 (2) is subject to a finding under the Antidumping
2 Act, 1921, which (A) is outstanding on the date of
3 enactment of this Act, or (B) was revoked on or before
4 the date of the enactment of this Act, but is still appli-
5 cable to such merchandise.

85TH CONGRESS
1ST Session

H. R. 6007

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

By Mr. REED

MARCH 14, 1957

Referred to the Committee on Ways and Means

85TH CONGRESS
1ST SESSION

H. R. 6006

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1957

Mr. COOPER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsections (b) and (c) of section 202 of the Anti-
4 dumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are
5 amended to read as follows:

6 “(b) In determining the foreign market value for the
7 purposes of subsection (a), if it is established to the satis-
8 faction of the Secretary or his delegate that the amount of
9 any difference between the purchase price and the foreign
10 market value (or that the fact that the purchase price is

1 the same as the foreign market value) is wholly or partly
2 due to—

3 “(1) the fact that the wholesale quantities, in which
4 such or similar merchandise is sold or, in the absence of
5 sales, offered for sale for exportation to the United States
6 in the ordinary course of trade, are less or are greater
7 than the wholesale quantities in which such or similar
8 merchandise is sold or, in the absence of sales, offered
9 for sale in the principal markets of the country of ex-
10 portation in the ordinary course of trade for home con-
11 sumption (or, if not so sold or offered for sale for home
12 consumption, then for exportation to countries other
13 than the United States),

14 “(2) other differences in circumstances of sale, or

15 “(3) the fact that merchandise described in sub-
16 division (C), (D), (E), or (F) of section 212 (3) is
17 used in determining foreign market value,

18 then due allowance shall be made therefor.

19 “(c) In determining the foreign market value for the
20 purposes of subsection (a), if it is established to the satisfac-
21 tion of the Secretary or his delegate that the amount of any
22 difference between the exporter's sales price and the foreign
23 market value (or that the fact that the exporter's sales price
24 is the same as the foreign market value) is wholly or partly
25 due to—

“ (1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“ (2) other differences in circumstances of sale, or

“ (3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.”

SEC. 2. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

“FOREIGN MARKET VALUE

“SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets

1 of the country from which exported, in the usual wholesale
2 quantities and in the ordinary course of trade for home con-
3 sumption (or, if not so sold or offered for sale for home con-
4 sumption, or if the Secretary determines that the quantity
5 sold for home consumption is so small in relation to the
6 quantity sold for exportation to countries other than the
7 United States as to form an inadequate basis for comparison,
8 then the price at which so sold or offered for sale for expor-
9 tation to countries other than the United States), plus, when
10 not included in such price, the cost of all containers and
11 coverings and all other costs, charges, and expenses incident
12 to placing the merchandise in condition packed ready for
13 shipment to the United States, except that in the case of
14 merchandise purchased or agreed to be purchased by the
15 person by whom or for whose account the merchandise is
16 imported, prior to the time of exportation, the foreign market
17 value shall be ascertained as of the date of such purchase or
18 agreement to purchase. In the ascertainment of foreign
19 market value for the purposes of this title no pretended sale
20 or offer for sale, and no sale or offer for sale intended to
21 establish a fictitious market, shall be taken into account. If
22 such or similar merchandise is sold or, in the absence of sales,
23 offered for sale through a sales agency or other organization
24 related to the seller in any of the respects described in
25 section 207, the prices at which such or similar merchandise

1 is sold or, in the absence of sales, offered for sale by such sales
2 agency or other organization may be used in determining
3 the foreign market value.”

4 SEC. 3. (a) The heading and text of section 206 of the
5 Antidumping Act, 1921 (19 U. S. C. 165), are amended
6 to read as follows:

7 “CONSTRUCTED VALUE

8 “SEC. 206. (a) For the purposes of this title, the con-
9 structed value of imported merchandise shall be the sum of—

10 “(1) the cost of materials (exclusive of any internal
11 tax applicable in the country of exportation directly to
12 such materials or their disposition, but remitted or
13 refunded upon the exportation of the article in the pro-
14 duction of which such materials are used) and of
15 fabrication or other processing of any kind employed
16 in producing such or similar merchandise, at a time
17 preceding the date of exportation of the merchandise
18 under consideration which would ordinarily permit the
19 production of that particular merchandise in the ordinary
20 course of business;

21 “(2) an amount for general expenses and profit
22 equal to that usually reflected in sales of merchandise
23 of the same general class or kind as the merchandise
24 under consideration which are made by producers in

1 the country of exportation, in the usual wholesale quan-
2 tities and in the ordinary course of trade, except that
3 (A) the amount for general expenses shall not be less
4 than 10 per centum of the cost as defined in paragraph
5 (1), and (B) the amount for profit shall not be less
6 than 8 per centum of the sum of such general expenses
7 and cost; and

8 “(3) the cost of all containers and coverings of
9 whatever nature, and all other expenses incidental to
10 placing the merchandise under consideration in condi-
11 tion, packed ready for shipment to the United States.

12 “(b) For the purposes of this section, a transaction di-
13 rectly or indirectly between persons specified in any one
14 of the paragraphs in subsection (c) of this section may be
15 disregarded if, in the case of any element of value required
16 to be considered, the amount representing that element does
17 not fairly reflect the amount usually reflected in sales in
18 the market under consideration of merchandise of the same
19 general class or kind as the merchandise under consideration.
20 If a transaction is disregarded under the preceding sentence
21 and there are no other transactions available for considera-
22 tion, then the determination of the amount required to be
23 considered shall be based on the best evidence available as
24 to what the amount would have been if the transaction had

1 occurred between persons not specified in any one of the
2 paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are:

4 “(1) Members of a family, including brothers and
5 sisters (whether by the whole or half blood), spouse,
6 ancestors, and lineal descendants;

7 “(2) Any officer or director of an organization
8 and such organization;

9 “(3) Partners;

10 “(4) Employer and employee;

11 “(5) Any person directly or indirectly owning,
12 controlling, or holding with power to vote, 5 per centum
13 or more of the outstanding voting stock or shares of
14 any organization and such organization; and

15 “(6) Two or more persons directly or indirectly
16 controlling, controlled by, or under common control
17 with, any person.”

18 (b) Sections 201 (b), 202 (a), 209, and 210 of the
19 Antidumping Act, 1921 (19 U. S. C., secs. 160 (b),
20 161 (a), 168, and 169), are amended by striking out
21 “cost of production” each place it appears and inserting in
22 lieu thereof “constructed value”.

23 SEC. 4. Section 212 of the Antidumping Act, 1921 (19

1 U. S. C. 171), is renumbered as section 213, and such Act
2 is amended by inserting after section 211 the following:

3 "Definitions

4 "SEC. 212. For the purposes of this title—

5 " (1) The term 'sold or, in the absence of sales,
6 offered for sale' means sold or, in the absence of sales,
7 offered—

8 " (A) to all purchasers at wholesale, or

9 " (B) in the ordinary course of trade to one or
10 more selected purchasers at wholesale at a price
11 which fairly reflects the market value of the mer-
12 chandise,

13 without regard to restrictions as to the disposition or
14 use of the merchandise by the purchaser except that,
15 where such restrictions are found to affect the market
16 value of the merchandise, adjustment shall be made
17 therefor in calculating the price at which the merchandise
18 is sold or offered for sale.

19 " (2) The term 'ordinary course of trade' means
20 the conditions and practices which, for a reasonable
21 time prior to the exportation of the merchandise under
22 consideration, have been normal in the trade under
23 consideration with respect to merchandise of the same
24 class or kind as the merchandise under consideration.

25 " (3) The term 'such or similar merchandise' means

merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

“(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

“(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

“(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

“(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

“(E) Merchandise (i) produced in the same country and by the same person and of the same class or kind as the merchandise under consideration,

1 (ii) like the merchandise under consideration in the
2 purposes for which used, and (iii) which the Secre-
3 tary or his delegate determines may reasonably be
4 compared for the purposes of this title with the
5 merchandise under consideration.

6 “(F) Merchandise which satisfies all the re-
7 quirements of subdivision (E) except that it was
8 produced by another person.

9 “(4) The term ‘usual wholesale quantities’, in any
10 case in which the merchandise in respect of which value
11 is being determined is sold in the market under consider-
12 ation at different prices for different quantities, means
13 the quantities in which such merchandise is there sold
14 at the price or prices for one quantity in an aggregate
15 volume which is greater than the aggregate volume sold
16 at the price or prices for any other quantity.”

17 SEC. 5. The amendments made by this Act shall apply
18 with respect to all merchandise as to which no appraisement
19 report has been made on or before the date of the enactment
20 of this Act; except that such amendments shall not apply
21 with respect to any merchandise which—

22 (1) was exported from the country of exportation
23 before the date of the enactment of this Act, and

1 (2) is subject to a finding under the Antidumping
2 Act, 1921, which (A) is outstanding on the date of
3 enactment of this Act, or (B) was revoked on or before
4 the date of the enactment of this Act, but is still appli-
5 cable to such merchandise.

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

By Mr. COOPER

MARCH 14, 1957

Referred to the Committee on Ways and Means

S. 1671

IN SENATE

January 1, 1900

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE
RELATIVE TO THE PROPOSED CEMENT ROAD FROM THE
MOUNTAIN VIEW CEMENT WORKS TO THE
MOUNTAIN VIEW CEMENT WORKS

A BILL

TO AMEND THE ACT OF MARCH 3, 1879, RELATIVE TO THE
MOUNTAIN VIEW CEMENT WORKS

1. That the said act be amended so that the said
2. road shall be constructed from the said
3. Mountain View Cement Works to the said
4. Mountain View Cement Works

A BILL

FOR THE PURPOSE OF

THE

OF THE

S. 1671

IN THE SENATE OF THE UNITED STATES

MARCH 21, 1957

Mr. MAGNUSON (for himself, Mr. BARRETT, Mr. FLANDERS, Mr. MCCARTHY, Mr. MURRAY, Mr. THURMOND, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Antidumping Act of 1921, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921, is amended
4 to read as follows:

5 “DUMPING INVESTIGATION

6 “SEC. 201. (a) (1) The Secretary of the Treasury
7 (hereafter referred to as the Secretary) upon a resolution
8 adopted by either House of the Congress, by the Committee
9 on Ways and Means of the House of Representatives or by
10 the Committee on Finance of the Senate, upon his own
11 motion, upon notice of suspected dumping from any ap-

1 praising officer or upon the application of any interested
2 party, shall cause an immediate investigation to be made
3 by the Commissioner of Customs (under such rules and
4 regulations as he may promulgate) to determine whether a
5 class or kind of foreign merchandise is being, or is likely to
6 be, sold in the United States or elsewhere at less than its
7 fair value, and such investigation shall be completed and a
8 public report thereon made not later than ninety days after
9 the date of such resolution, motion, notice, or application.

10 “(2) In the course of any such investigation the Com-
11 missioner of Customs shall hold hearings, giving reasonable
12 public notice thereof, and shall afford reasonable opportunity
13 for interested parties to be present, to present evidence, and
14 to be heard at such hearings.

15 “(3) The Secretary after such investigation shall make
16 public the findings thereof and if the finding is in the affirma-
17 tive it shall include a description of the class or kind of
18 merchandise to which it applies in such detail as may be
19 necessary for the guidance of customs officers; or if in the
20 negative, it shall include a statement of all the evidence or
21 other information on which such finding is based.

22 “(4) In making a determination under this subsection,
23 the Commissioner of Customs shall make his determination
24 on such evidence as may be available and shall find that
25 merchandise is being, or is likely to be, sold in the United

1 States at less than its fair value if the purchase price, or the
2 exporter's sale price, is less or likely to be less than its foreign
3 market value (or, in the absence of such value, than the cost
4 of its production).

5 “(b) Whenever, in the case of any imported mer-
6 chandise of a class or kind as to which the Secretary has not
7 made public a finding, the appraiser or person acting as
8 appraiser has reason to believe or suspect, from the invoice
9 or other papers or from information presented to him, that
10 the purchase price or exporter's sales price is less, or is likely
11 to be less, than the foreign market value (or in the absence
12 of such value, than the cost of production), he shall forth-
13 with notify the Secretary of such fact and the Secretary shall
14 forthwith direct, under such regulations as he may prescribe,
15 the withholding of appraisement reports as to such mer-
16 chandise entered or withdrawn from warehouse, for con-
17 sumption, until the Secretary has made public his report and
18 findings as provided for in subsection (a) of this section in
19 regard to such merchandise.”

20 SEC. 2. Section 202 of the Antidumping Act, 1921, is
21 amended to read as follows:

22 “SPECIAL DUMPING DUTY

23 “SEC. 202. (a) In the case of all imported merchandise,
24 whether dutiable or free of duty, of a class or kind as to
25 which the Secretary has made public an affirmative finding

1 as provided in section 201, and as to which the appraiser
2 or person acting as appraiser has made no appraisement
3 report to the collector before such finding has been so made
4 public, if the purchase price or the exporter's sale price is
5 less than the foreign market value (or, in the absence of
6 such value, than the cost of production) there shall be levied,
7 collected, and paid, in addition to the duties imposed thereon
8 by law, a special dumping duty in an amount equal to such
9 difference: *Provided however*, That no such additional duty
10 shall be collected if the United States Tariff Commission,
11 within thirty days from the date of such published affirmative
12 finding, shall have found and publicly certified to the Secre-
13 tary that there is no significant production of like, similar or
14 competitive merchandise existing or developing in the
15 United States.

16 “(b) If it is established, upon proof by the person by
17 whom or for whose account the merchandise is imported,
18 that the amount of such difference between the purchase
19 price or the exporter's sale price and the foreign market
20 value is wholly or partly due to the fact that the wholesale
21 quantities, in which such or similar merchandise is sold or
22 offered for sale to purchasers at wholesale for exportation
23 to the United States in the ordinary course of trade, are
24 greater than the wholesale quantities in which such or simi-
25 lar merchandise is sold or offered for sale to purchasers at

1 wholesale in the country of origin in the ordinary course
2 of trade for home consumption (or, if the foreign market
3 value has been determined under section 205 upon the basis
4 of sales or offers for sale otherwise than for home consump-
5 tion, then the wholesale quantities in which such or similar
6 merchandise is so sold or offered for sale), then due allow-
7 ance shall be made therefor in determining the foreign
8 market value for the purposes of this section.”

9 SEC. 3. Section 203 of the Antidumping Act, 1921, is
10 amended to read as follows:

11 “PURCHASE PRICE

12 “SEC. 203. (a) For the purposes of this title, the pur-
13 chase price of imported merchandise shall be the price at
14 which such merchandise has been purchased or agreed to be
15 purchased, prior to the time of exportation, by the person
16 by whom or for whose account the merchandise is imported,
17 plus, when not included in such price, the cost of all con-
18 tainers and coverings and all other costs, charges, and ex-
19 penses incident to placing the merchandise in condition,
20 packed ready for shipment to the United States, less the
21 amount, if any, included in such price, attributable to any
22 additional costs, charges, and expenses, and United States
23 import duties, incident to bringing the merchandise from the
24 place of shipment in the country of origin to the place of
25 delivery in the United States; and less the amount, if in-

1 cluded in such price, of any export tax imposed by the coun-
2 try of origin on the exportation of the merchandise to the
3 United States; and plus, to the extent the amounts specified
4 in clauses (1) and (2) below are included in the calculation
5 of the foreign market value, or cost of production, as the case
6 may be, with which the purchase price is to be compared,
7 (1) the amount of any import duties imposed by the country
8 of origin which have been rebated, or which have not been
9 collected, by reason of the exportation of the merchandise to
10 the United States; and (2) the amount of any taxes imposed
11 in the country of origin upon the manufacturer, producer,
12 or seller, in respect to the manufacture, production, or sale of
13 the merchandise, which have been rebated, or which have not
14 been collected, by reason of the exportation of the merchan-
15 dise to the United States.

16 “(b) For the purpose of this section and section 204,
17 the purchase price or the exporter’s sales price presuppose
18 (1) that such price is the sole consideration for the purchase
19 or sale; (2) that such price is not influenced by any com-
20 mercial, financial, or other relationship, whether by contract
21 or otherwise, between the seller of the merchandise or any
22 person associated in business with him and the purchaser of
23 such merchandise or any person associated in business with
24 him except for the relationship created by the purchase or
25 sale; and (3) that no part of the proceeds of any subsequent

1 resale, use, or disposal of the goods will accrue either directly
2 or indirectly to the seller or any person associated in business
3 with him: *Provided, however,* That if such price does not ful-
4 fill the conditions set forth in clause (1), (2), or (3),
5 above, the Secretary shall adjust such price to reflect the fail-
6 ure to fulfill such conditions.”

7 SEC. 4. Section 204 of the Antidumping Act, 1921, is
8 amended to read as follows:

9 “EXPORTER’S SALES PRICE

10 “SEC. 204. For the purposes of this title, the exporter’s
11 sales price of imported merchandise shall be the price at
12 which such merchandise is sold or agreed to be sold in the
13 United States, before or after the time of importation, by or
14 for the account of the exporter, plus, when not included in
15 such price, the cost of all containers and coverings and all
16 other costs, charges, and expenses incident to placing the
17 merchandise in condition, packed ready for shipment to the
18 United States, less (1) the amount, if any, included in such
19 price, attributable to any additional costs, charges, and
20 expenses, and United States import duties, incident to bring-
21 ing the merchandise from the place of shipment in the
22 country of origin to the place of delivery in the United
23 States, (2) the amount of the commissions, if any, for selling
24 in the United States the particular merchandise under con-
25 sideration, (3) an amount equal to the expenses, if any,

1 generally incurred by or for the account of the exporter in
2 the United States in selling such or similar merchandise, and
3 (4) the amount of any export tax imposed by the country
4 of origin on the exportation of the merchandise to the United
5 States; and plus, to the extent the amounts specified in
6 clauses (A) and (B), below, are included in the calculation
7 of the foreign market value, or cost of production, as the case
8 may be, with which the exporter's sales price is to be com-
9 pared, (A) the amount of any export duties imposed by the
10 country of origin which have been rebated, or which have
11 not been collected, by reason of the exportation of the mer-
12 chandise to the United States; and (B) the amount of any
13 taxes imposed in the country of origin upon the manufacturer,
14 producer, or seller, in respect to the manufacture, production,
15 or sale of the merchandise, which have been rebated, or
16 which have not been collected, by reason of the exportation
17 of the merchandise to the United States."

18 SEC. 5. Section 205 of the Antidumping Act, 1921,
19 is amended to read as follows:

20 "FOREIGN MARKET VALUE

21 "SEC. 205. For the purposes of this title the foreign
22 market value of imported merchandise shall be the price
23 (to be determined on such evidence as may be available),
24 at or about the time of exportation of such merchandise
25 to the United States, at which such or similar merchandise

1 is sold or offered for sale (regardless of restrictions of any
2 type, including restrictions as to disposition or use) to pur-
3 chasers at wholesale in the country of origin, in the ordi-
4 nary course of trade for home consumption plus, when not
5 included in such price, the cost of all containers and cover-
6 ings and all other costs, charges, and expenses incident to
7 placing the merchandise in condition, packed ready for
8 shipment to the United States, except that in the case of
9 merchandise purchased or agreed to be purchased by the
10 person by whom or for whose account the merchandise
11 is imported, prior to the time of exportation, the foreign
12 market value shall be ascertained as of or about the date
13 of such purchase or agreement to purchase. If such or
14 similar merchandise is not so sold or offered for sale for
15 home consumption or if the quantity so sold or offered for
16 sale for home consumption in relation to the quantity sold
17 or offered for sale for exportation otherwise than to the
18 United States is so small at or about the time of exporta-
19 tion as to be a totally inadequate basis for comparison, then
20 the foreign market value of the imported merchandise shall
21 be the price, subject to the same adjustments as the price
22 for home consumption, at which such or similar merchan-
23 dise is sold or offered for sale otherwise than for exportation
24 to the United States. In the ascertainment of foreign mar-

1 ket value for the purposes of this title, a determination shall
2 be made on the best available evidence and no pretended
3 sale or offer for sale, and no sale or offer for sale intended
4 to establish a fictitious market, shall be taken into account.”

5 SEC. 6. Section 206 of the Antidumping Act, 1921, is
6 amended to read as follows:

7 “COST OF PRODUCTION

8 “SEC. 206. (a) For the purposes of this title, the cost
9 of production of imported merchandise (to be determined on
10 such evidence as may be available) shall be the sum of—

11 “(1) the cost of materials of (exclusive of any in-
12 ternal tax applicable in the country of origin to such
13 materials or their disposition, but remitted or refunded
14 upon the exportation of the article in the production of
15 which such materials are used), and of fabricating, ma-
16 nipulating, or other process employed in manufacturing
17 or producing such or similar merchandise at a time pre-
18 ceding the date of shipment of the particular merchan-
19 dise under consideration which would ordinarily permit
20 the manufacture or production of the particular mer-
21 chandise under consideration in the usual course of busi-
22 ness;

23 “(2) the usual general expense (not less than 12
24 per centum of such cost) incident to the production of
25 such or similar merchandise;

“(3) an addition for profit (not less than 10 per centum of the sum of the amounts found under paragraphs (1) and (2) equal to the profit which is ordinarily added, in the case of such or similar merchandise by manufacturers or purchasers in the country of origin who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration; and

“(4) the cost of all containers and coverings and all other costs and expenses incident to placing such or similar merchandise in condition, packed ready for shipment to the United States.

“(b) For the purposes of this section and section 205, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been

1 if the transaction had occurred between persons not specified
2 in any one of the paragraphs in subsection (c).

3 “(c) The persons referred to in subsection (b) are:

4 “(1) Members of a family, including brothers and
5 sisters (whether by the whole or half blood), a spouse, an-
6 cestors, and lineal descendants;

7 “(2) Any officer or director of an organization and
8 such organization;

9 “(3) Partners;

10 “(4) Employer and employee;

11 “(5) Any person directly or indirectly owning, con-
12 trolling, or holding with power to vote 5 per centum or more
13 of the outstanding voting stock or shares of any organization
14 and such organization; and

15 “(6) Two or more persons directly or indirectly con-
16 trolling, controlled by, or under common control with any
17 person.”

18 SEC. 7. The Antidumping Act, 1921, is further amended
19 by repealing sections 213 and 214 thereof and by adding at
20 the end thereof the following new sections:

21 “DEFINITIONS

22 “SEC. 213. When used in this title—

23 “(1) The term ‘person’ includes individuals, partner-
24 ships, corporations, and associations.

25 “(2) The term ‘United States’ includes all territories

1 and possessions subject to the jurisdiction of the United
2 States.

3 “(3) The term ‘ordinary course of trade’ means the
4 conditions and practices which, for a reasonable time prior
5 to the exportation of the particular merchandise under con-
6 sideration, have been usual in the trade under consideration
7 with respect to merchandise of the same class or kind as
8 such particular merchandise.

9 “(4) The term ‘purchasers at wholesale’ means pur-
10 chasers who buy in wholesale quantities for their own con-
11 sumption or use in manufacturing or for resale without fur-
12 ther processing.

13 “(5) The term ‘such or similar merchandise’ means
14 merchandise in the first of the following categories in respect
15 of which fair value, foreign market value, or cost of produc-
16 tion, as the case may be, is to be determined on the best
17 available evidence:

18 “(A) Other merchandise which is similar in physical
19 characteristics with the particular merchandise under con-
20 sideration and produced in the same country.

21 “(B) Merchandise produced in the same country which
22 is similar in component materials and in the purposes for
23 which used.

24 “(C) Merchandise which satisfies the requirements of
25 subparagraphs (A) or (B) except for differences in com-

1 ponent material or materials or in design or in the method
2 of packaging for sale or in the quantities packaged for sale,
3 in which case the determination shall be made with appro-
4 priate adjustments for differences in cost of production or
5 marketing which result from such differences.

6 “APPEAL TO COURT OF CUSTOMS AND PATENT APPEALS

7 “SEC. 214. (a) APPEAL.—An interested party dissatis-
8 fied with a finding of the Secretary of the Treasury under
9 this title may appeal to the United States Court of Customs
10 and Patent Appeals.

11 “(b) NOTICE OF APPEAL.—When an appeal is taken
12 to the United States Court of Customs and Patent Appeals
13 under subsection (a), the appellant shall give notice thereof
14 to the Secretary, and shall file with the Secretary his reasons
15 of appeal, set forth in writing, within sixty days after the
16 date of the publication of the Secretary’s findings.

17 “(c) PROCEEDINGS ON APPEAL.—The United States
18 Court of Customs and Patent Appeals shall, before hearing
19 any appeal under this section, give notice of the time and
20 place of the hearing to the Secretary and the parties thereto.
21 The Secretary shall transmit to the court certified copies of
22 all the reports and findings in the case specified by the ap-
23 pellant and all evidence or other information considered by
24 the Commissioner of Customs or the Secretary in reaching
25 the decision in question.

1 “(d) The United States Court of Customs and Patent
2 Appeals, on petition, shall hear and determine such appeal
3 on the evidence or other information produced by the in-
4 vestigation or produced at the hearings or submitted by the
5 parties. Upon its determination the court shall return to
6 the Secretary a certificate of its proceedings and decision,
7 which shall govern the further proceedings in the case.”

A BILL

To amend the Antidumping Act of 1921, and
for other purposes.

By Mr. MAGNUSON, Mr. BARRETT, Mr. FLANDERS,
Mr. MCCARTHY, Mr. MURRAY, Mr.
THURMOND, and Mr. YOUNG

MARCH 21, 1957

Read twice and referred to the Committee on Finance

85TH CONGRESS
1ST SESSION

S. 1860

IN THE SENATE OF THE UNITED STATES

APRIL 12, 1957

Mr. BYRD (for himself and Mr. MARTIN of Pennsylvania) (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend certain provisions of the Antidumping Act, of 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsections (b) and (c) of section 202 of the Anti-
4 dumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are
5 amended to read as follows:

6 “(b) In determining the foreign market value for the
7 purposes of subsection (a), if it is established to the satis-
8 faction of the Secretary or his delegate that the amount of
9 any difference between the purchase price and the foreign
10 market value (or that the fact that the purchase price is

1 the same as the foreign market value) is wholly or partly
2 due to—

3 “(1) the fact that the wholesale quantities, in
4 which such or similar merchandise is sold or, in the ab-
5 sence of sales, offered for sale for exportation to the
6 United States in the ordinary course of trade, are less
7 or are greater than the wholesale quantities in which
8 such or similar merchandise is sold or, in the absence of
9 sales, offered for sale in the principal markets of the
10 country of exportation in the ordinary course of trade for
11 home consumption (or, if not so sold or offered for sale
12 for home consumption, then for exportation to countries
13 other than the United States),

14 “(2) other differences in circumstances of sale, or

15 “(3) the fact that merchandise described in sub-
16 division (C), (D), (E), or (F) of section 212 (3)
17 is used in determining foreign market value,

18 then due allowance shall be made therefor.

19 “(c) In determining the foreign market value for the
20 purposes of subsection (a), if it is established to the satis-
21 faction of the Secretary or his delegate that the amount of
22 any difference between the exporter’s sales price and the
23 foreign market value (or that the fact that the exporter’s
24 sales price is the same as the foreign market value) is
25 wholly or partly due to—

“(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value, then due allowance shall be made therefor.”

SEC. 2. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

“FOREIGN MARKET VALUE

“SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets

1 of the country from which exported, in the usual wholesale
2 quantities and in the ordinary course of trade for home
3 consumption (or, if not so sold or offered for sale for home
4 consumption, or if the Secretary determines that the quantity
5 sold for home consumption is so small in relation to the
6 quantity sold for exportation to countries other than the
7 United States as to form an inadequate basis for comparison,
8 then the price at which so sold or offered for sale for ex-
9 portation to countries other than the United States), plus,
10 when not included in such price, the cost of all containers
11 and coverings and all other costs, charges, and expenses
12 incident to placing the merchandise in condition packed ready
13 for shipment to the United States, except that in the case
14 of merchandise purchased or agreed to be purchased by the
15 person by whom or for whose account the merchandise is
16 imported, prior to the time of exportation, the foreign market
17 value shall be ascertained as of the date of such purchase or
18 agreement to purchase. In the ascertainment of foreign
19 market value for the purposes of this title no pretended sale
20 or offer for sale, and no sale or offer for sale intended to
21 establish a fictitious market, shall be taken into account.
22 If such or similar merchandise is sold or, in the absence of
23 sales, offered for sale through a sales agency or other organ-
24 ization related to the seller in any of the respects described
25 in section 207, the prices at which such or similar mer-

1 chandise is sold or, in the absence of sales, offered for sale
 2 by such sales agency or other organization may be used in
 3 determining the foreign market value.”

4 SEC. 3. (a) The heading and text of section 206 of
 5 the Antidumping Act, 1921 (19 U. S. C. 165), are amended
 6 to read as follows:

7 “CONSTRUCTED VALUE

8 “SEC. 206. (a) For the purposes of this title, the con-
 9 structed value of imported merchandise shall be the sum of—

10 “(1) the cost of materials (exclusive of any internal
 11 tax applicable in the country of exportation directly to
 12 such materials or their disposition, but remitted or re-
 13 funded upon the exportation of the article in the pro-
 14 duction of which such materials are used) and of fabri-
 15 cation or other processing of any kind employed in pro-
 16 ducing such or similar merchandise, at a time preceding
 17 the date of exportation of the merchandise under con-
 18 sideration which would ordinarily permit the production
 19 of that particular merchandise in the ordinary course of
 20 business;

21 “(2) an amount for general expenses and profit
 22 equal to that usually reflected in sales of merchandise
 23 of the same general class or kind as the merchandise
 24 under consideration which are made by producers in

1 the country of exportation, in the usual wholesale quan-
2 tities and in the ordinary course of trade, except that

3 (A) the amount for general expenses shall not be less
4 than 10 per centum of the cost as defined in paragraph
5 (1), and (B) the amount for profit shall not be less
6 than 8 per centum of the sum of such general expenses
7 and cost; and

8 “(3) the cost of all containers and coverings of
9 whatever nature, and all other expenses incidental to
10 placing the merchandise under consideration in condi-
11 tion, packed ready for shipment to the United States.

12 “(b) For the purposes of this section, a transaction
13 directly or indirectly between persons specified in any one
14 of the paragraphs in subsection (c) of this section may be
15 disregarded if, in the case of any element of value required
16 to be considered, the amount representing that element does
17 not fairly reflect the amount usually reflected in sales in the
18 market under consideration of merchandise of the same gen-
19 eral class or kind as the merchandise under consideration. If
20 a transaction is disregarded under the preceding sentence and
21 there are no other transactions available for consideration,
22 then the determination of the amount required to be con-
23 sidered shall be based on the best evidence available as to

1 what the amount would have been if the transaction had
2 occurred between persons not specified in any one of the
3 paragraphs in subsection (c).

4 “(c) The persons referred to in subsection (b) are:

5 “(1) Members of a family, including brothers and
6 sisters (whether by the whole or half blood), spouse, an-
7 cestors, and lineal descendants;

8 “(2) Any officer or director of an organization and such
9 organization;

10 “(3) Partners;

11 “(4) Employer and employee;

12 “(5) Any person directly or indirectly owning, con-
13 trolling, or holding with power to vote, 5 per centum or
14 more of the outstanding voting stock or shares of any or-
15 ganization and such organization; and

16 “(6) Two or more persons directly or indirectly con-
17 trolling, controlled by, or under common control with, any
18 person.”

19 (b) Sections 201 (b), 202 (a), 209, and 210 of the
20 Antidumping Act, 1921 (19 U. S. C. 160 (b), 161 (a),
21 168, and 169), are amended by striking out “cost of produc-
22 tion” each place it appears and inserting in lieu thereof
23 “constructed value”.

1 SEC. 4. Section 212 of the Antidumping Act, 1921
2 (19 U. S. C. 171), is renumbered as section 213, and such
3 Act is amended by inserting after section 211 the following:

4 “DEFINITIONS

5 “SEC. 212. For the purposes of this title—

6 “(1) The term ‘sold or, in the absence of sales, offered
7 for sale’ means sold or, in the absence of sales, offered—

8 “(A) to all purchasers at wholesale, or

9 “(B) in the ordinary course of trade to one or
10 more selected purchasers at wholesale at a price which
11 fairly reflects the market value of the merchandise,
12 without regard to restrictions as to the disposition or use
13 of the merchandise by the purchaser except that, where
14 such restrictions are found to affect the market value of
15 the merchandise, adjustment shall be made therefor in cal-
16 culating the price at which the merchandise is sold or offered
17 for sale.

18 “(2) The term ‘ordinary course of trade’ means the
19 conditions and practices which, for a reasonable time prior
20 to the exportation of the merchandise under consideration,
21 have been normal in the trade under consideration with
22 respect to merchandise of the same class or kind as the
23 merchandise under consideration.

24 “(3) The term ‘such or similar merchandise’ means
25 merchandise in the first of the following categories in respect

1 of which a determination for the purposes of this title can
2 be satisfactorily made:

3 “(A) The merchandise under consideration and other
4 merchandise which is identical in physical characteristics
5 with, and was produced in the same country by the same
6 person as, the merchandise under consideration.

7 “(B) Merchandise which is identical in physical char-
8 acteristics with, and was produced by another person in the
9 same country as, the merchandise under consideration.

10 “(C) Merchandise (i) produced in the same country
11 and by the same person as the merchandise under considera-
12 tion, (ii) like the merchandise under consideration in com-
13 ponent material or materials and in the purposes for which
14 used, and (iii) approximately equal in commercial value
15 to the merchandise under consideration.

16 “(D) Merchandise which satisfies all the requirements
17 of subdivision (C) except that it was produced by another
18 person.

19 “(E) Merchandise (i) produced in the same country
20 and by the same person and of the same class or kind as the
21 merchandise under consideration, (ii) like the merchandise
22 under consideration in the purposes for which used, and
23 (iii) which the Secretary or his delegate determines may
24 reasonably be compared for the purposes of this title with
25 the merchandise under consideration.

1 “(F) Merchandise which satisfies all the requirements
2 of subdivision (E) except that it was produced by another
3 person.

4 “(4) The term ‘usual wholesale quantities’, in any case
5 in which the merchandise in respect of which value is being
6 determined is sold in the market under consideration at
7 different prices for different quantities, means the quantities
8 in which such merchandise is there sold at the price or
9 prices for one quantity in an aggregate volume which is
10 greater than the aggregate volume sold at the price or prices
11 for any other quantity.”

12 SEC. 5. The amendments made by this Act shall apply
13 with respect to all merchandise as to which no appraisement
14 report has been made on or before the date of the enact-
15 ment of this Act; except that such amendments shall not
16 apply with respect to any merchandise which—

17 (1) was exported from the country of exportation
18 before the date of the enactment of this Act, and

19 (2) is subject to a finding under the Antidumping
20 Act, 1921, which (A) is outstanding on the date of
21 enactment of this Act, or (B) was revoked on or
22 before the date of the enactment of this Act, but is still
23 applicable to such merchandise.

A BILL

To amend certain provisions of the Anti-dumping Act of 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

By Mr. BYRD and Mr. MARTIN of Pennsylvania

APRIL 12, 1957

Read twice and referred to the Committee on Finance

Presidents ever assumed the office in more difficult times, and few, if any, had as many controversial decisions to make. Harry Truman took the oath of the Presidency in humility and with many serious misgivings, I am sure. But every day he occupied the White House he grew in stature and in self-confidence.

He met the grave issues of the day head on, and though many contemporaries disagreed with his decisions, he at least made decisions and fought for them, often against great odds. In office as out of office, he has won battles and lost battles. But never has defeat deterred him in a cause. He just gets off the floor and comes back fighting.

You might not like where Harry Truman stands; but you always know where he stands. And in Government, courage to make a decision, right or wrong, is an often scarce and precious asset.

I join our fellow Missourians in this birthday salute to a fighting Missourian—the man from Independence, President Harry S. Truman.

FOREIGN DUMPING IN THE UNITED STATES MARKET

The SPEAKER pro tempore (Mr. VANIK in the chair). Under the previous order of the House, the gentleman from West Virginia [Mr. BAILEY], is recognized for 30 minutes.

Mr. BAILEY. Mr. Speaker, some days ago it was my pleasure to introduce H. R. 5102, an antidumping act. I was joined in this commendable act by a large number of my colleagues in the House on both sides of the center aisle.

It is a well established practice over the years to protect American producers from the practice of producers abroad to offer for sale in this country certain foreign-made or foreign-grown products at a price below the price charged for the same article in the country in which it was produced or grown.

It has, over the years, been the American policy to protect American markets from such unfair practices.

You will recall my protest against the customs simplification bill on the floor of the House and my charge that it would, if enacted, destroy, and nullify our existing antidumping laws. The Customs Simplification Act allows an export value instead of the current sale price value in the country of origin as a basis for fixing import duties.

In this connection, I wish to call attention to the practice of importers of Japanese products of building huge warehouses to store imports for sale in future years. This is going on on our west coast and as far east as Minneapolis. It is just another dumping operation.

Since everybody agrees that foreign dumping in the United States market is an unfair trade practice per se and contrary to our public policy expressed in our various domestic antitrust and unfair trade practice laws, we feel strongly that the requirement of showing injury as now contained in the Antidumping Act should be removed. It circumvents the retarding influence intended by the Act and has acted as an open in-

itation to foreign dumping, the practice of which has become widespread.

The countervailing duty law—designed to prevent or offset foreign subsidized sales in the United States—has no comparable requirement of showing injury. And, Congress has repeatedly refused the Treasury Department's requests that such injury requirement be inserted in the countervailing duty law, notwithstanding the contrary but unauthorized provision contained in The General Agreement on Tariffs and Trade. The Congress clearly does not consider this provision of GATT with respect to both subsidies and dumping of any force or effect. This factor taken together with frequent expressions of dissatisfaction with the ineffective manner in which the antidumping act has been administered and the fact that Congress has directed the Treasury Department to recommend strengthening amendments required to make the act more promptly effective, seems to us to constitute a directive that the Treasury Department give serious and careful consideration to recommending that the injury requirement be removed.

The Antidumping Act was intended to—and should be so amended and promptly and effectively administered, resolving all doubts against the advocates of dumping as to—act as a deterrent to the foreign practice of dumping in the United States market. It should be a preventative act and not primarily a remedial measure. We should not invite the illness and then go to the doctor for a remedy.

The result has been the exact reverse—foreign dumping has been encouraged and has become a common practice, as is clearly evidenced by the Treasury Department's own survey of 1954 imports, showing such a wide range of imported merchandise having an export value lower than the foreign value. The act, as it has been so laxly, rarely, and begrudgingly enforced—with its various complications and delays in determining a dumping price; and then the impossible requirement that domestic industry carry the burden of proof both as to dumping price and injury as likely to result from such dumping—has resulted in an open invitation to foreign producers and governments to engage in the practice of dumping. By the ineffective manner in which the act has been administered, we have given them the virtual assurance that they can usually dump in our market with immunity or at least until the purpose of their dumping has been accomplished.

The act should be so amended and promptly and effectively administered as to increase its deterrent effect, thus stopping the now widespread practice of dumping. The amendments to the act should be so written as to clearly and unequivocally put foreign producers and foreign governments on notice that they cannot expect to dump in this market and get away with it. They should be forcefully advised, if and when they do dump merchandise in this market, that we will promptly, forcefully and retroactively impose an antidumping duty equal to the extent of the "dumping

price," in order to offset and cancel out any advantage that they may have hoped to obtain by such dumping. Such an amended act—along with prompt and effective administration—would stop most of the foreign dumping, as was the real intent of the Antidumping Act. The act was not intended as a revenue raising measure. If foreign producers and governments clearly understand that they cannot gain an advantage by dumping—that it will be fully and promptly offset by an equivalent dumping duty—they will discontinue the practice of dumping.

To accomplish this retarding and preventive purpose the bill, first, removes the injury requirement, with a provision that the duty will not be imposed when (within 30 days of the finding of a dumping price) the Tariff Commission finds and certifies that there is no existing or developing production of like, similar, or competitive merchandise in the United States; second, restores the full retroactivity of the dumping duty, when dumping is found, to all entries not finally liquidated by the Collector of Customs at the time suspected dumping is first brought to the attention of the Treasury Department by an interested party; third, provides for a prompt and mandatory "dumping price" investigation upon application of any interested party or upon notice of suspected dumping from any customs official; fourth, provides that "dumping price" investigations must be completed within 90 days, and that the findings thereof must be published in a report stating the evidence and considerations supporting such findings of "dumping" or "no dumping"; fifth, clarifies the definition of "fair" and "foreign market value" so that the foreign value can be readily determined on a basis of practical, competitive and commercial realities; and so that the intent of the act cannot be circumvented by artificial and meaningless restrictions in foreign sales or offers for sale, or by minor differences between articles sold abroad and those exported to the United States, which have been used in the past to justify the failure to find a foreign value on which a finding of dumping could be based; and sixth, provides for Court of Customs and Patent Appeals review of the findings in such dumping investigations.

The amendments to the act in H. R. 5102 are so written as to place the burden of proof—proof of no dumping—whenever dumping is reasonably suspected, upon the foreign producer or Government or the American importer or upon such other person or organization as may be advocating the unfair-trade practice of dumping. Since dumping is clearly an unfair-trade practice, there is ample justification for resolving all doubts in favor of the domestic producer and imposing the burden of proof upon the advocate of dumping in any suspected case. Otherwise the act loses its clearly intended purpose of retarding and preventing the unfair-trade practice of dumping. Also, the elements of proof as to foreign value and other elements of dumping proof are peculiarly in the hands of foreign producers and American importers—those who advocate

dumping. Frequently, even in aggravated cases, factors of clear and positive proof are not available and cannot be obtained by domestic producers. Such proof as may be within the United States is in the hands of the Treasury Department, which says that it is confidential and cannot be given to American producers.

This placing of the burden of proof upon the advocate of dumping could result in no injury to the foreign producer or American importer. The advocate of imports, where dumping is suspected, can easily prove his case, if he is correct—and he is the only one who has all the facts readily available. The advocate of dumping cannot even be hurt, if he is correct. Even if the dumping duty is imposed, the suspected imports need not pay the duty; if, as the advocate of dumping claims, the imports do come in at—or above—the fair value. If the imports are coming in at fair value, the advocate should not be concerned by or fear a dumping duty because he will not be affected thereby.

Those opposed to dumping duties—the advocates of dumped imports—usually have engaged in, or contemplate engaging in, the admittedly unfair trade practice of dumping. If he is not and does not contemplate doing so, it should be easy for him to carry the burden of proving so in the event he should be falsely accused, even in a borderline case. If his hands are entirely clean, he probably would not even oppose the imposition of a dumping duty because he would know that the duty could not affect his shipments. If an isolated, unintentional shipment did come in, by chance, at a dumped price, the duty would only equal the difference between the dumping price and the fair value. It would not be a penalty and would not retard or limit his normal, fair imports. It would constitute only a fair warning that he should comply with our law and avoid dumping in the future if he wants to do business in the American market.

There should be no hesitancy to promptly imposing antidumping duties because, even when imposed, they do not apply to or restrict fair imports which do come in at or above the fair foreign-market value. The dumping duty, in any event, is only imposed on each individual entry—standing on its own merits—and only when and to such extent as that entry was actually exported to the United States at a price less than the fair foreign-market value.

Because the elements of clear and positive proof are exclusively in the hands of the advocates of dumping—or suspected imports—all doubts should be resolved in favor of the domestic producer and in favor of imposing the dumping duty which would be harmless to any fair imports. To err in the direction of imposing the duty cannot injure the fair foreign producer or the fair American importer. No one but an advocate of unfair, dumped imports could have any legitimate objection thereto.

On the other hand, to err in the direction of only reluctantly making findings of dumping and of not imposing a dump-

ing duty promptly, encourages and openly invites this unfair, foreign trade practice. It results in irreparable injury to domestic producers.

The only real opposition to an effectively amended Antidumping Act and its promptly effective enforcement, comes from those who have engaged in, or intend to engage in, the unfair trade practice of dumping.

The issue is really whether the unfair trade practice of dumping should be condoned or condemned in the import trade. The present law, as it has been administered, actually condones and encourages foreign dumping in our market by foreign competitors. The real issue now before Congress, is whether the Congress should ratify the widespread foreign practice of dumping, as invited and encouraged by the administration of the existing law, by inaction, or condemn it by effective amendments.

While they do not say so openly, those who oppose effective amendments to and administration of the act want it so ineffectively administered—as it has been in the past—as to be the practical equivalent of repeal.

We feel strongly that the issue should be met squarely and honestly. The act should be so amended by Congress, both in substantive and procedural provisions, as to make it an effective deterrent and absolute bar against the unfair, foreign practice of dumping—where there is production of comparable products in the United States. If Congress should decide against this course of action—in all honesty, the existing so-called Antidumping Act should be repealed.

To have an ineffective and unenforced act on the books, as we do now, can only cause misunderstanding and friction with foreign producers and foreign Governments. A clear, mandatory, and strongly enforced statute which is clearly understood abroad as definitely barring dumped imports will be readily accepted and will reduce friction abroad to a minimum.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. SCHERER from May 13 to May 17, 1957, on account of representing the Committee on Public Works at the International Roads Conference at Havana, Cuba.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. ROGERS of Massachusetts for 5 minutes today.

Mr. COLLIER, for 15 minutes, on Wednesday next.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. MULTER and to include an editorial from the *Columbian*.

Mr. ZELENKO and to include extraneous matter.

Mr. HARRISON of Virginia in two instances and to include extraneous matter. Mr. BENTLEY and to include an address.

Mr. MERROW in two instances and in each to include an editorial.

Mr. JENSEN and to include a statement.

Mr. MILLER of Maryland and include a resolution of the Maryland General Assembly.

Mr. MUMMA.

Mr. LANE in four instances and to include extraneous matter.

Mr. THOMPSON of New Jersey in seven instances and to include extraneous matter.

Mr. ANDERSON of Montana in three instances and to include extraneous matter.

Mr. VANIK in two instances and to include extraneous matter.

Mr. DORN of South Carolina in 2 instances and to include 2 different articles.

Mr. PATMAN to revise and extend the remarks he made in Committee of the Whole today and include extraneous matter.

Mr. ROONEY and to include an editorial from yesterday's *World Telegram*.

Mr. HAYS of Ohio and to include extraneous matter.

Mr. BATES and to include extraneous matter.

Mr. KRUEGER and to include extraneous matter.

Mr. CURTIS of Massachusetts and to include extraneous matter.

Mr. BERRY in five instances and to include extraneous matter.

Mr. WEAVER and to include a resolution from the State Legislature of Nebraska.

Mr. HYDE and to include excerpts from an article.

Mr. PHILBIN in three instances and to include extraneous matter.

Mr. MADDEN and to include a newspaper article.

Mrs. BOLTON in two instances.

Mr. ABBITT (at the request of Mr. McCORMACK) in two instances and to include extraneous matter.

Mr. WHITENER (at the request of Mr. McCORMACK) and to include extraneous matter.

Mr. FLOOD (at the request of Mr. McCORMACK) in four instances and to include extraneous matter.

Mr. KLUCZYNSKI (at the request of Mr. McCORMACK) in four instances and to include extraneous matter.

Mr. McCORMACK in 2 instances and in 1 to include an article by Walter Lippmann.

Mr. ROGERS of Texas.

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. McCARTHY] may have permission to extend his remarks in the Appendix of the RECORD and include an article written by Monsignor George G. Higgins. If by chance this article should have been previously inserted by another Member, I ask consent that permission be granted to the gentleman from Minnesota [Mr. McCARTHY] to insert it a second time.

ANTIDUMPING ACT, 1921

AUGUST 27, 1957.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. COOPER, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 6006]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 3, strike out "That subsections", and insert:

That section 201 of the Antidumping Act, 1921 (19 U. S. C. 160), is amended as follows:

(1) By striking out "he shall forthwith authorize" in subsection (b) and inserting in lieu thereof "he shall forthwith publish notice of that fact in the Federal Register and shall authorize".

(2) By adding at the end of such section the following new subsection:

"(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative."

SEC. 2. Subsections.

Page 3, line 17, strike out "Sec. 2." and insert "Sec. 3.".

Page 5, line 4, strike out "Sec. 3." and insert "Sec. 4.".

Page 7, line 23, strike out "Sec. 4." and insert "Sec. 5."

Page 8, line 3, strike out "Definitions" and insert "DEFINITIONS".

Page 9, line 25, before "class", insert "general".

Page 10, line 17, strike out "Sec. 5." and insert "Sec. 6."

PURPOSE AND SCOPE

H. R. 6006 would amend the Antidumping Act so as to provide for greater certainty, speed, and efficiency in its enforcement. It was drafted by the Treasury Department in accordance with the directive of Congress contained in section 5 of the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.), which called for a review of the operation and effectiveness of the Antidumping Act by the Secretary of the Treasury. A report was made pursuant to this provision of the law and was submitted on February 1, 1957. The recommendations of the Treasury Department for amendment of the Antidumping Act, as further amended by your committee, constitute the bill which is presented herewith.

The present bill embodies all the amendments which the Treasury Department is prepared to recommend at the present time. The Treasury Department feels that no further amendment of the act is called for in the light of its experience in the administration of the act and that further amendment of the act should be made, if at all, at a future time when its probable results can be more clearly analyzed.

Your committee has received testimony and has had bills referred to it which would involve more extensive amendment to the Antidumping Act than is provided for in the present bill. Suggestions have been advanced for the amendment of the Antidumping Act to provide for a statutory definition of "fair value," definition of the terms "injury" and "industry," judicial review of the determinations of the Treasury Department and the Tariff Commission, Presidential review of dumping findings, etc. Consideration of these aspects of the act would involve reexamination of the basic policy issues involved in antidumping legislation. There is a wide divergence of views as to what the appropriate policy objectives of antidumping legislation should be and how they may best be implemented. Indeed, the views expressed to your committee on these matters were often diametrically opposed. Your committee is of the opinion that these matters require careful and detailed study and that amendment of the act in these respects at this time would be premature. The amendments to the Antidumping Act contained in H. R. 6006 are of a technical nature and do not involve any change in the basic policy of the act.

GENERAL STATEMENT

A. PRINCIPAL FEATURES OF H. R. 6006

(1) *Assessment of dumping duties*

Assessment of dumping duties is provided for in the present law if there are (a) sales at less than fair value of imported merchandise and (b) injury to an industry in the United States resulting therefrom. Due to the wording of section 205 of the present law defining "foreign market value" and to Treasury rulings and court decisions construing this wording, it is possible for situations to arise where sales at less than fair value and injury are found, but where no duties can be

collected. The bill would revise this wording and is thus designed to put an end to this anomalous situation which can presently arise.

(2) *Definitions*

The new definitions of certain terms enacted in the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.) would be incorporated into the Antidumping Act by the bill, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculation of dumping duties. Customs officials would thereby be enabled in large measure to apply a similar set of definitions both in the calculation of ordinary duties and of dumping duties.

(3) *Public notice and reports*

Provision is made by your committee's bill for mandatory public notice when there is reason to believe or suspect sales of imported merchandise at a dumping price, and mandatory public notice by the Treasury Department and the Tariff Commission of their decisions in dumping cases, whether affirmative or negative, with reasons therefor.

B. ANALYSIS

(1) *Assessment of dumping duties*

The Antidumping Act provides that when there has been a determination that imported merchandise of a certain class or kind has been or is being sold at less than fair value and that such sales are or are likely to be injurious to domestic industry, the dumping duties to be collected on particular shipments of such merchandise are to be equal to the amounts by which the prices paid for the goods by American purchasers are less than the foreign market values of the goods (or, in the absence of such value, than the cost of production).

Section 205 of the act provides that the foreign market value of imported merchandise is to be determined by reference to the price—

at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not sold or offered for sale for home consumption, then for exportation to countries other than the United States).

The phrase "sold or freely offered" has been construed by the courts to render prices in "restricted" sales ineligible for use in the determination of foreign market values. Examples of restricted sales are ones in which the buyers agree that the goods are not to be resold or used except as specified in the sales contracts. Such restrictions are fairly common in commercial practice.

The term "fair value" is not defined in the Antidumping Act but is defined in Treasury regulations. Formerly the Treasury construed the term as synonymous with foreign market value or (in cases where foreign market value as defined in the act is not determinable) with the cost of production of the goods. In 1955 the Treasury Department issued amended regulations regarding fair value to provide that the prices in "restricted" sales of such or similar goods in the home market of the exporter or in sales of such or similar goods for export to countries other than the United States could be used in

the determination of fair value. The Treasury Department explains that the prices of such or similar goods in restricted sales frequently provides a better and more easily ascertainable measure of fair value than can be arrived at if such restricted sales are excluded from consideration.

A principal change in the Antidumping Act of 1921 as amended which would be made by H. R. 6006 involves amendment of the definition of "foreign market value" in section 205 of the act so as to permit the use of prices in "restricted" sales in the determination of foreign market value. This amendment would bring the definition of "foreign market value" into conformity with the definition of "fair value" in the Treasury regulations. The amendment would be advantageous to the administration of the act because, with the disparity in the definitions of "foreign market value" and "fair value" that now exists, imported merchandise may be found to be sold below fair value to the injury of domestic industries but no antidumping duties may be chargeable. Such a situation can arise, for example, where the exclusion of a higher home market price as a basis for foreign market value requires reference to third country prices and where such prices are the same as or lower than the prices at which such or similar merchandise is sold to the United States.

Another amendment in the definitions relating to assessment of dumping duties is designed to make appropriate comparisons between the price at which imported merchandise is sold to American purchasers and the price at which such or similar merchandise is sold by the foreign producers or exporters elsewhere despite minor dissimilarities between the merchandise and the differences in the terms or circumstances of the sale.

2. Definitions

As a result of long study in the customs field, it was determined that certain definitions used in connection with value for assessment of ordinary duties should be brought up to date. This was accomplished in the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.). These definitions are now, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculation of dumping duties, incorporated into the bill. These new definitions cover the terms "sold or, in the absence of sales, offered for sale"; "constructed value"; "ordinary course of trade"; "such or similar merchandise"; "usual wholesale quantities".

3. Public notice and reports

Provision is made by your committee's bill for public notice where the Secretary of the Treasury has reason to believe or suspect sales at less than foreign market value. In the past few years, it has generally been the practice to put out a press release in such cases. The bill will make publication mandatory.

Provision is also made by your committee's bill for published notice of decisions, whether affirmative or negative, with reasons therefor. The Treasury Department will be required to publish such reports on its determinations with respect to sales at less than fair value and the Tariff Commission will be required to publish such reports on its determinations with respect to injury. In the past there has been no established practice on this point, except that United States Tariff

Commission decisions have been published, sometimes with, sometimes without reasons. Mandatory publication will enable all concerned to know what are the developments in connection with the Antidumping Act, and what types of cases are being found within or without the scope of its application.

SECTION-BY-SECTION EXPLANATION OF THE BILL

SECTION 1

Subsection (b) of section 201 of the Antidumping Act, 1921, in general requires the Secretary of the Treasury to forthwith authorize the withholding of appraisement reports as to imported merchandise of a class or kind as to which he has not made public a finding that it is being, or is likely to be, sold in the United States or elsewhere at less than its fair value whenever he has reason to believe or suspect that the purchase price is less than the foreign market value.

Paragraph (1) of the first section of the bill, as reported, amends section 201 (b) of the Antidumping Act to require the Secretary to publish notice in the Federal Register in addition to authorizing withholding of appraisement reports.

Paragraph (2) of the first section of the bill, as reported, adds a new subsection (c) to section 201 of the Antidumping Act. The new subsection requires the Secretary of the Treasury and the United States Tariff Commission to publish their decisions on dumping cases in the Federal Register, whether positive or negative, with reasons therefor.

SECTION 2

Section 202 of the Antidumping Act explains how the special dumping duty shall be calculated, once a finding has been published pursuant to section 201 (a) that foreign merchandise is sold at less than "fair value," with resultant injury to an industry in the United States. Subsection (a) of section 202 provides that the duty shall be measured by the difference between "foreign market value" and the price in the United States market. The price in the United States market may be either "purchase price" or "exporter's sales price." Subsection (b) (which deals with purchase price) and subsection (c) (which deals with exporter's sales price) provide for certain circumstances justifying adjustments in the figure to be calculated as foreign market value. Section 2 of the bill, as reported, relates to these subsections (b) and (c) of section 202 of the law. It substitutes the words "Secretary or his delegate" for "appraising officers." It uses different wording from that heretofore employed, for sales and offers for sale. It changes the provision regarding quantity discounts, and adds provisions regarding "other circumstances of sale" and "similar" articles of merchandise. These points may be more fully described as follows:

Substitution of the words "Secretary or his delegate" for "appraising officers"

In section 202 (b) and (c) the words "the Secretary or his delegate" are substituted for the words "appraising officers" to conform the wording of the law with the already existing legal status, as the result of 1950 Reorganization Plan No. 26, whereby all functions of all

offices of the Treasury Department, and all functions of all agencies and employees of the Department are placed in the Secretary with authority to delegate. Matters of detail such as here dealt with will be continued to be handled by the subordinates, by delegation.

Substitution of the words "sold or, in the absence of sales, offered for sale" for "sold or freely offered for sale to all purchasers"

Substitution in section 202 (b) and (c) of the words "sold or, in the absence of sales, offered for sale" for the words "sold or freely offered for sale to all purchasers" is one of several steps taken herein to bring this term into conformity with the provision of the Customs Regulations (19 C. F. R. 14.7) adopted April 8, 1955, defining the term "fair value." The substitution also conforms to wording in the Customs Simplification Act of 1956 with one difference made necessary because of the different purposes of the 1956 act and the Antidumping Act. This difference is the omission of the word "freely." The reason for the omission is explained in the second following paragraph.

As indicated above, findings under the Antidumping Act are based on sales at less than "fair value" with resultant injury, but special dumping duties are based on sales at less than "foreign market value." The purpose of conforming the definition of "foreign market value" to that of "fair value" is to put an end to the anomalous situation whereby a finding can be made under the act but no dumping duties can be collected despite continuance of sales at less than fair value.

In connection with the use of the words "sold or, in the absence of sales, offered for sale" the following explanation can be given. Your committee was advised by Treasury Department representatives that on occasion exporters are enabled to sell in the United States market at a lower price than they sold for home consumption without coming within the purview of the Antidumping Act because of inconsequential restrictions placed on their home consumption sales. Thus restricted they were no longer "freely" offered. The amended definition of "fair value" adopted in 1955 closed this gap so as to make possible findings under the act, but the present amendment to the law (which cannot be accomplished by regulation) is needed to make possible assessment of dumping duties in such cases. This applies where the home consumption price is higher than the price to the United States. The reverse situation, where a foreign cartel through its control of the market artificially lowers home consumption price to make possible an equally and unduly low price to the United States market can be handled with reference to the provision of the law and the regulations that no home consumption sale intended to establish a fictitious market shall be taken into account.

Differences due to quantity discounts

The amended provision in regard to quantity discounts is designed to make it clear that such discounts are a factor to be considered from the standpoint of a positive as well as a negative determination of sales at less than foreign market value. The present law provides that allowance may be made for quantity discounts if the quantities shipped to the United States are "greater" than the quantities sold for home consumption. Under the bill, as reported, it is provided that allowance shall be made if "any difference" between the prices being compared is due to the fact that the quantities in the sales to the United States market "are less or are greater than" the quantities sold for

home consumption (sec. 202 (b) (1) and (c) (1)). As presently worded, sales below foreign market value can be excused if the difference is due to quantity discounts, but sales at less than foreign market value cannot be determined if the price to the United States is not less than the home consumption price before allowance for the difference due to quantity discounts, although the price to the United States after allowance due to quantity discounts is in fact less than home consumption price because the quantities sold in the home market are greater than the quantities sold in the United States. The amendment would permit this provision to work both ways.

Differences due to "other circumstances of sale"

Under the bill as reported, provision is made (sec. 202 (b) (2) and (c) (2)) for consideration of "other differences in circumstances of sale" in addition to quantity differentials. This is designed to facilitate efficient and fair comparison between foreign market value and price to the United States market. Examples would be differences in terms of sale, credit terms, and advertising and selling costs.

Differences due to the fact that "similar" articles of merchandise are being compared

The essential element in a price determination under the Antidumping Act is typically a comparison between the price in the United States market, on the one hand, and the price of "such or similar" merchandise for home consumption in the exporting country, on the other hand. Section 202 (b) (3) and (c) (3), as added by the bill, is designed to facilitate equitable comparison and further to bring the definition of foreign market value into conformity with the definition of fair value. Section 5 of the bill, as reported, inserts a new section 212 in the law, entitled "Definitions." Section 212 (3) defines "such or similar merchandise." Subparagraphs (A) and (B) describe merchandise which is identical—i. e., "such" merchandise. Subparagraphs (C), (D), (E), and (F) describe merchandise which can be considered "similar." Section 202 (b) (3) and (c) (3) of the Antidumping Act, as added by section 2 of the bill, as reported, provide that where "similar" merchandise (i. e., merchandise described in sec. 212 (3) (C), (D), (E), or (F)) rather than "such" merchandise (i. e., merchandise described in sec. 212 (3) (A) or (B)) is being compared, allowance may be made for differences between the articles under consideration. If, for example, long-handled shovels are sold to the United States, and only short-handled (otherwise identical) shovels are sold for home consumption in the country of exportation, then it is possible to consider the two types of shovel "similar," and a price determination can be made by comparing the two similar shovels, making allowance for the fact that the long handles cost more than the short handles.

SECTION 3

Section 3 of the bill, as reported, deals with section 205 of the Antidumping Act, defining foreign market value. Changes relate to "sold or * * * offered for sale"; cases in which home consumption price is not an adequate standard for comparison; and sales through sales agencies.

*"Sold or * * * offered for sale"*

The words "sold or, in the absence of sales, offered for sale" are substituted for the words "sold or freely offered for sale to all purchasers" for the same reasons as those given in regard to the like amendment of subsections (b) and (c) of section 202, explained above.

Home consumption sales an inadequate basis for comparison

The provision authorizing the Secretary to base foreign market value on the price for exportation to countries other than the United States when home consumption sales are so small as to form an inadequate basis for comparison is another amendment derived from the Customs Regulations defining fair value (19 C. F. R. 14.7). While the usual standard for comparison with price to the United States market should be home consumption price, there may be instances in which the volume of home consumption sales do not form an adequate basis for comparison. If, for example, a foreign company sells only 1 percent of its product in the home country, 50 percent to third countries, and 49 percent to the United States, it is obvious that a fair comparison for the purpose of determining whether there has been dumping as to price can only be made by comparing the price to the United States with the third-country price. However, existing law ordinarily require the calculation of foreign market value to be made on the basis of the home consumption sales. Under the amendment made by section 3 of the bill, as reported, reference would instead be made to third-country price where this seems necessary for a fair comparison.

Sales through a sales agency

The provision relative to sales through a sales agency is designed to eliminate any possibility that transactions between related persons (as that term is defined in the law with reference to exporter's sales price) must be considered "sold" and used as the basis for foreign market value. This provision is derived from Customs Regulations (19 C. F. R. 14.7 (b) (3)), adopted April 8, 1955, defining fair value.

SECTION 4

Subsection (a) of section 4 of the bill, as reported, amends section 206 of the Antidumping Act to substitute the term "constructed value" for the term "cost of production." This definition of "constructed value" follows the definition of that term as added to the Tariff Act of 1930 by the Customs Simplification Act of 1956, with the following changes: (1) Instead of referring to merchandise "undergoing appraisement" the amendment refers to merchandise "under consideration"; (2) provision is made that the amount for general expenses shall be not less than 10 percent and the amount for profit not less than 8 percent. A comparative type showing the exact differences between the wording of the amendment and the wording in the Customs Simplification Act of 1956 is set forth in appendix A.

Under subsection (b) of section 4 of the bill, as reported, wherever the term "cost of production" appears in the Antidumping Act, the term "constructed value" is substituted.

SECTION 5

Section 5 of the bill, as reported, renumbers section 212 of the Antidumping Act as section 213, and inserts a new section 212 relating

to definitions. In addition to "constructed value," which is provided for in section 4 of the bill, as reported, the following definitions are incorporated in section 5 of the bill: "sold or, in the absence of sales, offered for sale"; "ordinary course of trade"; "such or similar merchandise"; and "usual wholesale quantities." These definitions are based on the Customs Simplification Act of 1956. Changes are made from the wording of the Customs Simplification Act of 1956 as necessary to show that the definitions here apply to values to be calculated under the Antidumping Act rather than to values calculated for purposes of ordinary duties; thus reference is made to merchandise "under consideration" instead of merchandise "undergoing appraisement." In addition two substantive changes are made.

The term "sold or, in the absence of sales, offered for sale" is used in place of the 1956 Customs Simplification Act's "freely sold or, in the absence of sales, offered for sale" in order that the definition shall be in conformity with the definition in the Customs Regulations regarding fair value (19 C. F. R. 14.7 (a) (1), (2)). (See also the discussion above relative to use of this term in the amendment sec. 202 (b) and (c) made by sec. 2 of the bill, as reported.) Because of the different purpose of the Antidumping Act, the amended definition applies to sales or offers irrespective of restrictions, in contrast to the 1956 Customs Simplification Act's definition which eliminates from consideration only certain types of restrictions. In analyzing sales under the Antidumping Act allowance may be made for differences due to restrictions, constituting circumstances of sale pursuant to the amendments to section 202, subsections (b) and (c).

The definition of "such or similar merchandise" is enlarged beyond the scope of the Customs Simplification Act of 1956, so as to be in conformity with the definition of fair value, in particular 19 Code of Federal Regulations 14.7 (4) (1) (circumstances of sale). This is designed to facilitate speedy and equitable comparison between merchandise sold to the United States and that sold elsewhere. (See also the discussion above relative to the use of this term in the amendment made by sec. 2 of the bill, as reported.)

A comparative type showing the exact differences between the wording of the definitions in the new section 212 and the wording in the Customs Simplification Act of 1956 is set forth in appendix B.

SECTION 6

Section 6 of the bill, as reported, provides that the amendments made by the bill are to apply with respect to all merchandise as to which no appraisement report has been made on or before the date of the enactment of the bill. The amendments are not to apply, however, with respect to any merchandise which—

(1) Was exported from the country of exportation before the date of the enactment of the bill; and

(2) Is subject to a finding under the Antidumping Act which
(A) is outstanding on the date of the enactment of the bill, or
(B) was revoked on or before the date of the enactment of the bill, but is still applicable to such merchandise.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ANTIDUMPING ACT, 1921

(TITLE II, PUBLIC NO. 10—67TH CONGRESS)

DUMPING INVESTIGATION

SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the said Commission. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the Secretary has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the **[cost of production]** *constructed value*), he shall forthwith authorize, under such regulations as he may prescribe, the withholding of appraisement reports as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping has been raised by or presented to him or any person to whom authority under this section has been delegated, until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subdivision (a) in regard to such merchandise.

SPECIAL DUMPING DUTY

SEC. 202. (a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom

authority under section 201 has been delegated, and as to which no appraisement report has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the **cost of production** *constructed value*) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

[(b) If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section.]

(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—

(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

[(c) If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section.]

(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his

delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

PURCHASE PRICE

SEC. 203. That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

EXPORTER'S SALES PRICE.

SEC. 204. That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and

United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

FOREIGN MARKET VALUE

SEC. 205. [That for] *For the purposes of this [title the] title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold [or freely offered for sale to all purchasers] or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.*

[COST OF PRODUCTION

[SEC. 206. That for the purposes of this title the cost of production of imported merchandise shall be the sum of—

[(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

[(2) The usual general expenses (not less than 10 per centum of such cost) in the case of identical or substantially identical merchandise;

[(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

[(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration.]

CONSTRUCTED VALUE

SEC. 206. (a) *For the purposes of this title, the constructed value of imported merchandise shall be the sum of—*

(1) *the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;*

(2) *an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and*

(3) *the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.*

(b) *For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under*

the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

(c) *The persons referred to in subsection (b) are:*

(1) *Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;*

(2) *Any officer or director of an organization and such organization;*

(3) *Partners;*

(4) *Employer and employee;*

(5) *Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and*

(6) *Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.*

EXPORTER

SEC. 207. That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person: or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

OATHS AND BONDS ON ENTRY

SEC. 208. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given

bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) that he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States, (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

DUTIES OF APPRAISERS

SEC. 209. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of **["cost of production"]** *constructed value* to the contrary notwithstanding) and report to the collector the foreign market value or the **["cost of production"]** *constructed value*, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

APPEALS AND PROTESTS

SEC. 210. That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the **["cost of production"]** *constructed value*, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; and the general appraisers, the Board of General Appraisers, and the Court of Customs Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

DRAWBACKS

SEC. 211. That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

Definitions

SEC. 212. *For the purposes of this title—*

(1) *The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—*

(A) *to all purchasers at wholesale, or*

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

(3) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(E) Merchandise (i) produced in the same country and by the same person and of the same class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

(4) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

SHORT TITLE

SEC. [212] 213. That this title may be cited as the "Antidumping Act, 1921."

APPENDIXES

APPENDIX A

COMPARATIVE TYPE SHOWING DIFFERENCES BETWEEN THE DEFINITION OF THE TERM "CONSTRUCTED VALUE" IN THE CUSTOMS SIMPLIFICATION ACT OF 1956 AND THE DEFINITION TO BE INCORPORATED IN ANTIDUMPING ACT BY H. R. 6006

NOTE.—The language of the Customs Simplification Act of 1956 which is to be incorporated in the Antidumping Act by the amendment is shown in plain type; that to be omitted is enclosed in black brackets; matter not contained in the Customs Simplification Act of 1956 is italicized.

[SEC. 402. VALUE * * * (d)] CONSTRUCTED VALUE [.—]

SEC. 206. (a) For the purposes of this [section] *title*, the constructed value of imported merchandise shall be the sum of—

(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise [undergoing appraisement] *under consideration* which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise [undergoing appraisement] *under consideration* which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, [for shipment to the United States; and] *except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1) and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and*

(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise [undergoing appraisement] *under consideration* in condition, packed ready for shipment to the United States.

[(g) TRANSACTIONS BETWEEN RELATED PERSONS.—]

[(1)] (b) For the purposes of [subsection (c) (1) or (d), as the case may be,] *this section*, a transaction directly or indirectly between persons specified in any one of the [subdivisions] *paragraphs* in [paragraph (2)] *subsection (c)* of this [subsection] *section* may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise

[undergoing appraisal] *under consideration*. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then **[for the purposes of subsection (d),]** the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the **[subdivisions]** *paragraphs* in **[paragraph (2)]** *subsection (c)*.

[(2)] (c) The persons referred to in **[paragraph (1)]** *subsection (b)* are:

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

(B) Any officer or director of an organization and such organization;

(C) Partners;

(D) Employer and employee;

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

APPENDIX B

COMPARATIVE TYPE SHOWING DIFFERENCES BETWEEN CERTAIN DEFINITIONS IN THE CUSTOMS SIMPLIFICATION ACT OF 1956 AND SIMILAR DEFINITIONS TO BE INCORPORATED IN THE ANTIDUMPING ACT BY H. R. 6006

NOTE.—The language of the Customs Simplification Act of 1956 which is to be incorporated in the Antidumping Act by the amendment is shown in plain type; that to be omitted is enclosed in black brackets; matter not contained in the Customs Simplification Act of 1956 is italicized.

[SEC. 402. VALUE * * * (f)] DEFINITIONS.—

SEC. 212. For the purposes of this **[section]** *title—*

(1) The term “**[freely]** sold or, in the absence of sales, offered for sale” means sold or, in the absence of sales, offered—

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without regard to restrictions as to the disposition or use of the merchandise by the purchaser**[,]** except *that, where such restrictions [as to such disposition or use which (i) are imposed or required by law, (ii) limit the price at which or the territory in which the merchandise may be resold, or (iii) do not substantially] are found to affect the market value of the merchandise, [to usual purchasers at wholesale] adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.*

(2) The term “ordinary course of trade” means the conditions and practices which, for a reasonable time prior to the exportation of the

merchandise [undergoing appraisement] *under consideration*, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise [undergoing appraisement] *under consideration*.

* * * * *

[(4)] (3) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which [export value, United States value, or constructed value, as the case may be, can be satisfactorily determined] *a determination for the purposes of this title can be satisfactorily made*:

(A) The merchandise [undergoing appraisement] *under consideration* and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise [undergoing appraisement] *under consideration*.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise [undergoing appraisement] *under consideration*.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise [undergoing appraisement] *under consideration*, (ii) like the merchandise [undergoing appraisement] *under consideration* in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise [undergoing appraisement] *under consideration*.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise *under consideration*, (ii) like the merchandise *under consideration* in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise *under consideration*.

(F) Merchandise which satisfied all the requirements of subdivision (E) except that it was produced by another person.

[(5)] (4) The term "usual wholesale quantities," in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

85TH CONGRESS
1ST SESSION

H. R. 6006

[Report No. 1261]

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1957

Mr. COOPER introduced the following bill; which was referred to the Committee on Ways and Means

AUGUST 27, 1957

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That subsections~~ *That section 201 of the Antidumping Act,*
4 *1921 (19 U. S. C. 160), is amended as follows:*

5 *(1) By striking out "he shall forthwith authorize"*
6 *in subsection (b) and inserting in lieu thereof "he shall*
7 *forthwith publish notice of that fact in the Federal*
8 *Register and shall authorize".*

9 *(2) By adding at the end of such section the follow-*
10 *ing new subsection:*

1 “(c) *The Secretary, upon determining whether foreign*
 2 *merchandise is being, or is likely to be, sold in the United*
 3 *States at less than its fair value, and the United States*
 4 *Tariff Commission, upon making its determination under*
 5 *subsection (a) of this section, shall each publish such deter-*
 6 *mination in the Federal Register, with a statement of the*
 7 *reasons therefor, whether such determination is in the affirm-*
 8 *ative or in the negative.*”

9 *SEC. 2. Subsections (b) and (c) of section 202 of the*
 10 *Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)),*
 11 *are amended to read as follows:*

12 “(b) In determining the foreign market value for the
 13 purposes of subsection (a), if it is established to the satis-
 14 faction of the Secretary or his delegate that the amount of
 15 any difference between the purchase price and the foreign
 16 market value (or that the fact that the purchase price is
 17 the same as the foreign market value) is wholly or partly
 18 due to—

19 “(1) the fact that the wholesale quantities, in which
 20 such or similar merchandise is sold or, in the absence of
 21 sales, offered for sale for exportation to the United States
 22 in the ordinary course of trade, are less or are greater
 23 than the wholesale quantities in which such or similar
 24 merchandise is sold or, in the absence of sales, offered
 25 for sale in the principal markets of the country of ex-

portation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

“(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter’s sales price and the foreign market value (or that the fact that the exporter’s sales price is the same as the foreign market value) is wholly or partly due to—

“(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered

1 for sale for home consumption, then for exportation to
2 countries other than the United States),

3 “(2) other differences in circumstances of sale, or

4 “(3) the fact that merchandise described in subdi-
5 vision (C), (D), (E), or (F) of section 212 (3) is
6 used in determining foreign market value,

7 then due allowance shall be made therefor.”

8 SEC. 2 3. The heading and text of section 205 of the
9 Antidumping Act, 1921 (19 U. S. C. 164), are amended to
10 read as follows:

11 “FOREIGN MARKET VALUE

12 “SEC. 205. For the purposes of this title, the foreign
13 market value of imported merchandise shall be the price, at
14 the time of exportation of such merchandise to the United
15 States, at which such or similar merchandise is sold or, in
16 the absence of sales, offered for sale in the principal markets
17 of the country from which exported, in the usual wholesale
18 quantities and in the ordinary course of trade for home con-
19 sumption (or, if not so sold or offered for sale for home con-
20 sumption, or if the Secretary determines that the quantity
21 sold for home consumption is so small in relation to the
22 quantity sold for exportation to countries other than the
23 United States as to form an inadequate basis for comparison,

1 then the price at which so sold or offered for sale for expor-
2 tation to countries other than the United States), plus, when
3 not included in such price, the cost of all containers and
4 coverings and all other costs, charges, and expenses incident
5 to placing the merchandise in condition packed ready for
6 shipment to the United States, except that in the case of
7 merchandise purchased or agreed to be purchased by the
8 person by whom or for whose account the merchandise is
9 imported, prior to the time of exportation, the foreign market
10 value shall be ascertained as of the date of such purchase or
11 agreement to purchase. In the ascertainment of foreign
12 market value for the purposes of this title no pretended sale
13 or offer for sale, and no sale or offer for sale intended to
14 establish a fictitious market, shall be taken into account. If
15 such or similar merchandise is sold or, in the absence of sales,
16 offered for sale through a sales agency or other organization
17 related to the seller in any of the respects described in
18 section 207, the prices at which such or similar merchandise
19 is sold or, in the absence of sales, offered for sale by such sales
20 agency or other organization may be used in determining
21 the foreign market value."

22 SEC. 3 4. (a) The heading and text of section 206 of the

1 Antidumping Act, 1921 (19 U. S. C. 165), are amended
2 to read as follows:

3 "CONSTRUCTED VALUE

4 "SEC. 206. (a) For the purposes of this title, the con-
5 structed value of imported merchandise shall be the sum of—

6 " (1) the cost of materials (exclusive of any internal
7 tax applicable in the country of exportation directly to
8 such materials or their disposition, but remitted or
9 refunded upon the exportation of the article in the pro-
10 duction of which such materials are used) and of
11 fabrication or other processing of any kind employed
12 in producing such or similar merchandise, at a time
13 preceding the date of exportation of the merchandise
14 under consideration which would ordinarily permit the
15 production of that particular merchandise in the ordinary
16 course of business;

17 " (2) an amount for general expenses and profit
18 equal to that usually reflected in sales of merchandise
19 of the same general class or kind as the merchandise
20 under consideration which are made by producers in
21 the country of exportation, in the usual wholesale quan-
22 tities and in the ordinary course of trade, except that
23 (A) the amount for general expenses shall not be less
24 than 10 per centum of the cost as defined in paragraph
25 (1), and (B) the amount for profit shall not be less

1 than 8 per centum of the sum of such general expenses
2 and cost; and

3 “(3) the cost of all containers and coverings of
4 whatever nature, and all other expenses incidental to
5 placing the merchandise under consideration in condi-
6 tion, packed ready for shipment to the United States.

7 “(b) For the purposes of this section, a transaction di-
8 rectly or indirectly between persons specified in any one
9 of the paragraphs in subsection (c) of this section may be
10 disregarded if, in the case of any element of value required
11 to be considered, the amount representing that element does
12 not fairly reflect the amount usually reflected in sales in
13 the market under consideration of merchandise of the same
14 general class or kind as the merchandise under consideration.
15 If a transaction is disregarded under the preceding sentence
16 and there are no other transactions available for considera-
17 tion, then the determination of the amount required to be
18 considered shall be based on the best evidence available as
19 to what the amount would have been if the transaction had
20 occurred between persons not specified in any one of the
21 paragraphs in subsection (c).

22 “(c) The persons referred to in subsection (b) are:

23 “(1) Members of a family, including brothers and
24 sisters (whether by the whole or half blood), spouse,
25 ancestors, and lineal descendants;

1 “(2) Any officer or director of an organization
2 and such organization;

3 “(3) Partners;

4 “(4) Employer and employee;

5 “(5) Any person directly or indirectly owning,
6 controlling, or holding with power to vote, 5 per centum
7 or more of the outstanding voting stock or shares of
8 any organization and such organization; and

9 “(6) Two or more persons directly or indirectly
10 controlling, controlled by, or under common control
11 with, any person.”

12 (b) Sections 201 (b), 202 (a), 209, and 210 of the
13 Antidumping Act, 1921 (19 U. S. C., secs. 160 (b),
14 161 (a), 168, and 169), are amended by striking out
15 “cost of production” each place it appears and inserting in
16 lieu thereof “constructed value”.

17 SEC. 4-5. Section 212 of the Antidumping Act, 1921,
18 (19 U. S. C. 171), is renumbered as section 213, and such
19 Act is amended by inserting after section 211 the following:

20 ~~“Definitions~~ DEFINITIONS

21 “SEC. 212. For the purposes of this title—

22 “(1) The term ‘sold or, in the absence of sales,
23 offered for sale’ means sold or, in the absence of sales,
24 offered—

25 “(A) to all purchasers at wholesale, or

1 “(B) in the ordinary course of trade to one or
2 more selected purchasers at wholesale at a price
3 which fairly reflects the market value of the mer-
4 chandise,
5 without regard to restrictions as to the disposition or
6 use of the merchandise by the purchaser except that,
7 where such restrictions are found to affect the market
8 value of the merchandise, adjustment shall be made
9 therefor in calculating the price at which the merchan-
10 dise is sold or offered for sale.

11 “(2) The term ‘ordinary course of trade’ means
12 the conditions and practices which, for a reasonable
13 time prior to the exportation of the merchandise under
14 consideration, have been normal in the trade under
15 consideration with respect to merchandise of the same
16 class or kind as the merchandise under consideration.

17 “(3) The term ‘such or similar merchandise’ means
18 merchandise in the first of the following categories in
19 respect of which a determination for the purposes of
20 this title can be satisfactorily made:

21 “(A) The merchandise under consideration and
22 other merchandise which is identical in physical
23 characteristics with, and was produced in the same
24 country by the same person as, the merchandise un-
25 der consideration.

1 “(B) Merchandise which is identical in physi-
2 cal characteristics with, and was produced by
3 another person in the same country as, the mer-
4 chandise under consideration.

5 “(C) Merchandise (i) produced in the same
6 country and by the same person as the merchandise
7 under consideration, (ii) like the merchandise under
8 consideration in component material or materials
9 and in the purposes for which used, and (iii) ap-
10 proximately equal in commercial value to the
11 merchandise under consideration.

12 “(D) Merchandise which satisfies all the re-
13 quirements of subdivision (C) except that it was
14 produced by another person.

15 “(E) Merchandise (i) produced in the same
16 country and by the same person and of the same
17 *general* class or kind as the merchandise under con-
18 sideration, (ii) like the merchandise under consid-
19 eration in the purposes for which used, and (iii)
20 which the Secretary or his delegate determines may
21 reasonably be compared for the purposes of this
22 title with the merchandise under consideration.

23 “(F) Merchandise which satisfies all the re-
24 quirements of subdivision (E) except that it was
25 produced by another person.

85TH CONGRESS
1ST SESSION

H. R. 6006

[Report No. 1261]

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1957

Mr. COOPER introduced the following bill; which was referred to the Committee on Ways and Means

AUGUST 27, 1957

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That subsections~~ *That section 201 of the Antidumping Act,*
4 *1921 (19 U. S. C. 160), is amended as follows:*

5 *(1) By striking out "he shall forthwith authorize"*
6 *in subsection (b) and inserting in lieu thereof "he shall*
7 *forthwith publish notice of that fact in the Federal*
8 *Register and shall authorize".*

9 *(2) By adding at the end of such section the follow-*
10 *ing new subsection:*

1 “(c) *The Secretary, upon determining whether foreign*
 2 *merchandise is being, or is likely to be, sold in the United*
 3 *States at less than its fair value, and the United States*
 4 *Tariff Commission, upon making its determination under*
 5 *subsection (a) of this section, shall each publish such deter-*
 6 *mination in the Federal Register, with a statement of the*
 7 *reasons therefor, whether such determination is in the affirm-*
 8 *ative or in the negative.”*

9 *SEC. 2. Subsections (b) and (c) of section 202 of the*
 10 *Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)),*
 11 *are amended to read as follows:*

12 “(b) In determining the foreign market value for the
 13 purposes of subsection (a), if it is established to the satis-
 14 faction of the Secretary or his delegate that the amount of
 15 any difference between the purchase price and the foreign
 16 market value (or that the fact that the purchase price is
 17 the same as the foreign market value) is wholly or partly
 18 due to—

19 “(1) the fact that the wholesale quantities, in which
 20 such or similar merchandise is sold or, in the absence of
 21 sales, offered for sale for exportation to the United States
 22 in the ordinary course of trade, are less or are greater
 23 than the wholesale quantities in which such or similar
 24 merchandise is sold or, in the absence of sales, offered
 25 for sale in the principal markets of the country of ex-

portation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

“(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter’s sales price and the foreign market value (or that the fact that the exporter’s sales price is the same as the foreign market value) is wholly or partly due to—

“(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered

1 for sale for home consumption, then for exportation to
2 countries other than the United States),

3 “(2) other differences in circumstances of sale, or

4 “(3) the fact that merchandise described in subdi-
5 vision (C), (D), (E), or (F) of section 212 (3) is
6 used in determining foreign market value,

7 then due allowance shall be made therefor.”

8 SEC. 2 3. The heading and text of section 205 of the
9 Antidumping Act, 1921 (19 U. S. C. 164), are amended to
10 read as follows:

11 “FOREIGN MARKET VALUE

12 “SEC. 205. For the purposes of this title, the foreign
13 market value of imported merchandise shall be the price, at
14 the time of exportation of such merchandise to the United
15 States, at which such or similar merchandise is sold or, in
16 the absence of sales, offered for sale in the principal markets
17 of the country from which exported, in the usual wholesale
18 quantities and in the ordinary course of trade for home con-
19 sumption (or, if not so sold or offered for sale for home con-
20 sumption, or if the Secretary determines that the quantity
21 sold for home consumption is so small in relation to the
22 quantity sold for exportation to countries other than the
23 United States as to form an inadequate basis for comparison,

1 then the price at which so sold or offered for sale for expor-
2 tation to countries other than the United States) , plus, when
3 not included in such price, the cost of all containers and
4 coverings and all other costs, charges, and expenses incident
5 to placing the merchandise in condition packed ready for
6 shipment to the United States, except that in the case of
7 merchandise purchased or agreed to be purchased by the
8 person by whom or for whose account the merchandise is
9 imported, prior to the time of exportation, the foreign market
10 value shall be ascertained as of the date of such purchase or
11 agreement to purchase. In the ascertainment of foreign
12 market value for the purposes of this title no pretended sale
13 or offer for sale, and no sale or offer for sale intended to
14 establish a fictitious market, shall be taken into account. If
15 such or similar merchandise is sold or, in the absence of sales,
16 offered for sale through a sales agency or other organization
17 related to the seller in any of the respects described in
18 section 207, the prices at which such or similar merchandise
19 is sold or, in the absence of sales, offered for sale by such sales
20 agency or other organization may be used in determining
21 the foreign market value.”

22 SEC. 3 4. (a) The heading and text of section 206 of the

1 Antidumping Act, 1921 (19 U. S. C. 165), are amended
2 to read as follows:

3 "CONSTRUCTED VALUE

4 "SEC. 206. (a) For the purposes of this title, the con-
5 structed value of imported merchandise shall be the sum of—

6 " (1) the cost of materials (exclusive of any internal
7 tax applicable in the country of exportation directly to
8 such materials or their disposition, but remitted or
9 refunded upon the exportation of the article in the pro-
10 duction of which such materials are used) and of
11 fabrication or other processing of any kind employed
12 in producing such or similar merchandise, at a time
13 preceding the date of exportation of the merchandise
14 under consideration which would ordinarily permit the
15 production of that particular merchandise in the ordinary
16 course of business;

17 " (2) an amount for general expenses and profit
18 equal to that usually reflected in sales of merchandise
19 of the same general class or kind as the merchandise
20 under consideration which are made by producers in
21 the country of exportation, in the usual wholesale quan-
22 tities and in the ordinary course of trade, except that
23 (A) the amount for general expenses shall not be less
24 than 10 per centum of the cost as defined in paragraph
25 (1), and (B) the amount for profit shall not be less

1 than 8 per centum of the sum of such general expenses
2 and cost; and

3 “(3) the cost of all containers and coverings of
4 whatever nature, and all other expenses incidental to
5 placing the merchandise under consideration in condi-
6 tion, packed ready for shipment to the United States.

7 “(b) For the purposes of this section, a transaction di-
8 rectly or indirectly between persons specified in any one
9 of the paragraphs in subsection (c) of this section may be
10 disregarded if, in the case of any element of value required
11 to be considered, the amount representing that element does
12 not fairly reflect the amount usually reflected in sales in
13 the market under consideration of merchandise of the same
14 general class or kind as the merchandise under consideration.
15 If a transaction is disregarded under the preceding sentence
16 and there are no other transactions available for considera-
17 tion, then the determination of the amount required to be
18 considered shall be based on the best evidence available as
19 to what the amount would have been if the transaction had
20 occurred between persons not specified in any one of the
21 paragraphs in subsection (c).

22 “(c) The persons referred to in subsection (b) are:

23 “(1) Members of a family, including brothers and
24 sisters (whether by the whole or half blood), spouse,
25 ancestors, and lineal descendants;

“(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

“(2) The term ‘ordinary course of trade’ means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

“(3) The term ‘such or similar merchandise’ means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

“(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

1 “(B) Merchandise which is identical in physi-
2 cal characteristics with, and was produced by
3 another person in the same country as, the mer-
4 chandise under consideration.

5 “(C) Merchandise (i) produced in the same
6 country and by the same person as the merchandise
7 under consideration, (ii) like the merchandise under
8 consideration in component material or materials
9 and in the purposes for which used, and (iii) ap-
10 proximately equal in commercial value to the
11 merchandise under consideration.

12 “(D) Merchandise which satisfies all the re-
13 quirements of subdivision (C) except that it was
14 produced by another person.

15 “(E) Merchandise (i) produced in the same
16 country and by the same person and of the same
17 *general* class or kind as the merchandise under con-
18 sideration, (ii) like the merchandise under consid-
19 eration in the purposes for which used, and (iii)
20 which the Secretary or his delegate determines may
21 reasonably be compared for the purposes of this
22 title with the merchandise under consideration.

23 “(F) Merchandise which satisfies all the re-
24 quirements of subdivision (E) except that it was
25 produced by another person.

1 “(4) The term ‘usual wholesale quantities’, in any
2 case in which the merchandise in respect of which value
3 is being determined is sold in the market under consider-
4 ation at different prices for different quantities, means
5 the quantities in which such merchandise is there sold
6 at the price or prices for one quantity in an aggregate
7 volume which is greater than the aggregate volume sold
8 at the price or prices for any other quantity.”

9 SEC. 5 6. The amendments made by this Act shall apply
10 with respect to all merchandise as to which no appraisement
11 report has been made on or before the date of the enactment
12 of this Act; except that such amendments shall not apply
13 with respect to any merchandise which—

14 (1) was exported from the country of exportation
15 before the date of the enactment of this Act, and

16 (2) is subject to a finding under the Antidumping
17 Act, 1921, which (A) is outstanding on the date of
18 enactment of this Act, or (B) was revoked on or before
19 the date of the enactment of this Act, but is still appli-
20 cable to such merchandise.

85TH CONGRESS
1ST SESSION

H. R. 6006

[Report No. 1261]

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

By Mr. COOPER

MARCH 14, 1957

Referred to the Committee on Ways and Means

AUGUST 27, 1957

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

1 “(4) The term ‘usual wholesale quantities’, in any
2 case in which the merchandise in respect of which value
3 is being determined is sold in the market under consider-
4 ation at different prices for different quantities, means
5 the quantities in which such merchandise is there sold
6 at the price or prices for one quantity in an aggregate
7 volume which is greater than the aggregate volume sold
8 at the price or prices for any other quantity.”

9 SEC. 5 6. The amendments made by this Act shall apply
10 with respect to all merchandise as to which no appraisement
11 report has been made on or before the date of the enactment
12 of this Act; except that such amendments shall not apply
13 with respect to any merchandise which—

14 (1) was exported from the country of exportation
15 before the date of the enactment of this Act, and

16 (2) is subject to a finding under the Antidumping
17 Act, 1921, which (A) is outstanding on the date of
18 enactment of this Act, or (B) was revoked on or before
19 the date of the enactment of this Act, but is still appli-
20 cable to such merchandise.

[Report No. 1261]

A BILL

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

By Mr. COOPER

MARCH 14, 1957

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18. RICE. Passed without amendment H.R. 8490, to make two technical adjustments in the law relating to rice acreage allotments, to provide for reassignment of such allotments when the land on which the allotment has previously been made is taken for public purposes, and to increase marketing quota penalties. pp. 14914-5
19. ANTIDUMPING. Passed as reported H.R. 6006, to provide greater efficiency in the enforcement of the Antidumping Act, 1921. pp. 14918-23
20. CONSERVATION. Conferees were appointed on S.J.Res. 35, to establish a National Conservation Anniversary Commission to commemorate the 50th anniversary of the first conference of State governors (p. 14933). Senate conferees were appointed Aug. 28.
21. BUDGETING. Rep. Scott spoke favoring appropriations on an annual accrued expenditure basis. pp. 14936-7
22. FARM PROGRAM. Rep. Henderson made his observations with regard to accomplishments of this session of Congress, stating there were few bills that might be considered helpful or beneficial to the farming industry. pp. 14937-9
Rep. Vanik spoke on this session's legislative accomplishments, criticizing farm policy and administration of the soil bank program. pp. 14940-45

ITEMS IN APPENDIX

23. FARM PRICES. Sen. Langer inserted a GTA radio bulletin discussing farm prices and stating that farmers do not need "a chart to remind them of the cold, hard facts about making a living on the farm." pp. A7203-4
24. FOREIGN AID. Extension of remarks of Rep. Pelly supporting restoration of funds in the conference report on the mutual security bill. p. A7204
Extension of remarks of Rep. May favoring foreign aid funds on a sound economic basis with no waste and inserting an article, "Foreign Aid Cut Coming." p. A7207
25. TARIFFS. Rep. Cooper inserted a Treasury Department analysis of H.R. 9424, to amend certain administrative provisions of the Tariff Act of 1930 and related laws. pp. A7208-11
26. SOIL CONSERVATION. Extension of remarks of Rep. Metcalf stating that one of the most critical, and most challenging issues before this Congress is the great need for more adequate conservation legislation and inserting Frank M. Coffin's address outlining an approach to improving our program for tree planting and land utilization. pp. A7213-5
27. SURPLUS FOOD. Rep. Burdick inserted an article, "Surplus Food Could Supply Every Family," with statistics on approximate distribution per family of CCC's inventories. p. A7215
28. APPROPRIATIONS. Extension of remarks of Rep. Fogarty criticizing "...the apparently deliberate refusal of the Executive Office of the President's Bureau of the Budget to permit the executive agencies to spend, or even plan to spend, the sums of money appropriated by Congress...." pp. A7215-7

29. FARM PROGRAM. Extension of remarks of Rep. Cooley concerning the work of the House Committee on Agriculture, discussing some of the problems confronting the committee and "the present plight of American farmers," and criticizing the administration's farm program. pp. A7218-22
Rep. Multer inserted a 1956 report to his constituent's on the accomplishments of the 84th Cong., including criticism of the farm program. pp. A7247-50
Extension of remarks of Rep. Hill stating that "in agriculture particularly are we facing serious difficulties about which little is being done." pp. A7267-8
30. FARM MACHINERY. Sen. Langer inserted a statement, "The Facts Behind International Harvester Prices." pp. A7228-9
31. GOVERNMENT EXPANSION. Rep. Gwinn inserted an article, "Adverse Effects of Expanding Government," which is a condensation of a 9-part study made by the Legislative Reference Service of the Library of Congress on the adverse effects of high taxes, public housing, the "detrimental" effects of Federal credit agencies, with specific reference to CCC, REA, FHA, and FCA. pp. A7232-46
32. BUDGETING. Rep. Rogers inserted a letter to the editor favoring H.R. 8002, the accrued expenditures bill. pp. A7250-1
33. SOIL BANK. Rep. Breeding inserted a Comptroller General's letter clarifying the meaning of the word "producer" as used in the limitation on the funds made available for the acreage-reserve program under the Soil Bank Act. pp. A7263-4
34. IMPORTS. Extension of remarks of Rep. Mack stating that "several large plywood plants/ⁱⁿ the Pacific Northwest have announced they are closing their plants," and urging enactment of legislation that will place quota limits on imports. pp. A7276-7
35. ROADS. Sen. Neuberger inserted an article which quoted him as saying that the "killing of the billboard control bill was a 'victory for ugliness.'" p. A7282
36. LANDS. Sen. Long inserted an editorial in support of his bill which would create a commission to provide for Federal-State commissions and a National Land Study Board of Review to study problems of land ownership. p. A7285

BILLS INTRODUCED

37. WOOL. H.R. 9518, by Rep. Berry, H.R. 9519, by Rep. Budge, H.R. 9532, by Rep. Thomson, Wyo., H.R. 9535, by Rep. Ullman, and H.R. 9539, by Rep. Aspinall, to extend the National Wool Act of 1954 (68 Stat. 910); to Agriculture Committee. Remarks of Rep. Thomson, Wyo., pp. 14935-6.
38. FOOD ADDITIVES. H.R. 9521, by Rep. Haley, and S. 2880, by Sen. Holland, to amend paragraph (k) of section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, to define the term "chemical preservative" as used in such paragraph; to Interstate and Foreign Commerce Committee, House, and Senate Labor and Public Welfare Committee.
39. PROPERTY. H.R. 9522, by Rep. Keating, to amend the Federal Property and Administrative Services Act of 1949 to authorize the disposal of surplus property to certain welfare agencies; to Government Operations Committee. Remarks of author. pp. A7205-6

quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ILSE STRIEGAN BACON

The Clerk called the bill (S. 684) for the relief of Ilse Striegan Bacon.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Ilse Striegan Bacon shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act upon payment of the required visa fee, under such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare may deem necessary to impose: *Provided, That* if the said Ilse Striegan Bacon is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NECMETTIN CENGIZ

The Clerk called the bill (S. 880) for the relief of Necmettin Cengiz.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Necmettin Cengiz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAULINE ETHEL ANGUS

The Clerk called the bill (S. 882) for the relief of Pauline Ethel Angus.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (6) of the Immigration and Nationality Act, the alien, Pauline Ethel Angus, may be granted a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act and upon compliance with such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare may deem necessary to impose: *Provided, That* a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act: *Provided further, That* this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REFUGIO GUERRERO-MONJE

The Clerk called the bill (S. 1456) for the relief of Refugio Guerrero-Monje.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Refugio Guerrero-Monje shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ITSUMI KASAHARA

The Clerk called the bill (S. 1467) for the relief of Itsumi Kasahara.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Itsumi Kasahara shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HELEN DEMOUCHIKOUS

The Clerk called the bill (S. 1582) for the relief of Helen Demouchikous.

Mr. AVERY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

MARIA TALIOURA BOISOT

The Clerk called the bill (S. 1635) for the relief of Maria Talioura Boisot.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the minor child, Maria Talioura Boisot, shall be held and considered to be the natural-born alien child of Pauline Boisot, a citizen of the United States.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DELFINA CINCO DE LOPEZ

The Clerk called the bill (S. 1636) for the relief of Delfina Cinco de Lopez.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provisions of subsection (a) of section 201 and subsection (b) of section 202 of the Immigration and Nationality Act, Delfina Cinco de Lopez shall be classified as an immigrant under the provisions of section 101 (a) (27) (C) of that act.

With the following committee amendment:

On page 1, line 3, after the word "of", insert "subsection (a) of section 201 and."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA DOMENICA RICCI

The Clerk called the bill (S. 1835) for the relief of Maria Domenica Ricci.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the minor child, Maria Domenica Ricci, shall be held and considered to be the natural-born alien child of Luciano Ricci, a citizen of the United States.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA GOLDET

The Clerk called the bill (S. 1921) for the relief of Maria Goldet.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Maria Goldet shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHERWOOD LLOYD PIERCE

The Clerk called the bill (S. 2028) for the relief of Sherwood Lloyd Pierce.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purposes of the Immigration and Nationality Act, Sherwood Lloyd Pierce shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee: *Provided, That* a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SALA WEISSBARD

The Clerk called the bill (S. 2041) for the relief of Sala Weissbard.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (6) of the Immigration and Nationality Act, Sala Weissbard may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act under such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare may deem necessary to impose: *Provided*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act: *Provided further*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARGARET E. CULLOTY

The Clerk called the bill (S. 2204) for the relief of Margaret E. Culloty.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, notwithstanding the provision of section 212 (a) (1) of the Immigration and Nationality Act, Margaret E. Culloty may be granted a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act: *Provided*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of said act: *Provided further*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANTIDUMPING ACT, 1921

Mr. COOPER. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

The Clerk read as follows:

Be it enacted, etc., That section 201 of the Antidumping Act, 1921 (19 U. S. C. 160), is amended as follows:

(1) By striking out "he shall forthwith authorize" in subsection (b) and inserting in lieu thereof "he shall forthwith publish notice of that fact in the Federal Register and shall authorize."

(2) By adding at the end of such section the following new subsection:

"(c) The Secretary, upon determining whether foreign merchandise is being, or is

likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative."

SEC. 2. Subsections (b) and (c) of section 202 of the Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are amended to read as follows:

"(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States).

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

"(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities in which such a similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor."

SEC. 3. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

"FOREIGN MARKET VALUE

"SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation

to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value."

SEC. 4. (a) The heading and text of section 206 of the Antidumping Act, 1921 (19 U. S. C. 165), are amended to read as follows:

"CONSTRUCTED VALUE

"SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

"(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

"(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 percent of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

"(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified

in any one of the paragraphs in subsection (c.).

"(c) The persons referred to in subsection (b) are:

"(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

"(2) Any officer or director of an organization and such organization;

"(3) Partners;

"(4) Employer and employee;

"(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

"(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person."

(b) Sections 201 (b), 202 (a), 209, and 210 of the Antidumping Act, 1921 (19 U. S. C., secs. 160 (b), 161 (a), 168, and 169), are amended by striking out "cost of production" each place it appears and inserting in lieu thereof "constructed value."

SEC. 5. Section 212 of the Antidumping Act, 1921 (19 U. S. C. 171), is renumbered as section 213, and such act is amended by inserting after section 211 the following:

"DEFINITIONS

"Sec. 212. For the purposes of this title—

"(1) The term 'sold or, in the absence of sales, offered for sale' means sold or, in the absence of sales, offered—

"(A) to all purchasers at wholesale, or

"(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise.

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

"(2) The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

"(3) The term 'such or similar merchandise' means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

"(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

"(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

"(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

"(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

"(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of

this title with the merchandise under consideration.

"(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

"(4) The term 'usual wholesale quantities,' in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity."

SEC. 6. The amendments made by this act shall apply with respect to all merchandise as to which no appraisal report has been made on or before the date of the enactment of this act; except that such amendments shall not apply with respect to any merchandise which—

(1) was exported from the country of exportation before the date of the enactment of this act, and

(2) is subject to a finding under the Antidumping Act, 1921, which (A) is outstanding on the date of enactment of this act, or (B) was revoked on or before the date of the enactment of this act, but is still applicable to such merchandise.

The SPEAKER. Is a second demanded?

Mr. REED. Mr. Speaker, I demand a second.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COOPER. Mr. Speaker, I yield myself 10 minutes.

(Mr. COOPER asked and was given permission to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, H. R. 6006 is designed to amend the Antidumping Act so as to provide for greater certainty, speed, and efficiency in its enforcement. The bill was drafted by the Treasury Department in accordance with the directive of Congress contained in section 5 of the Customs Simplification Act of 1956—Public Law 927, 84th Congress—which called for a review of the operation and effectiveness of the Antidumping Act by the Secretary of the Treasury. A report was made pursuant to this provision of the law and was submitted on February 1, 1957. The Committee on Ways and Means recently conducted public hearings on the Treasury recommendations and other proposals to amend the Antidumping Act. The recommendations of the Treasury Department for amendment of the Antidumping Act, as further amended by your committee, constitute the bill now before the House.

H. R. 6006 has three principal features:

First. Assessment of dumping duties: Assessment of dumping duties is provided for in the present law if there are (a) sales at less than fair value of imported merchandise, and (b) injury to an industry in the United States resulting therefrom. Due to the wording of section 205 of the present law defining "foreign market value," and to Treasury

rulings and court decisions construing this wording, it is possible to have situations arise where sales at less than fair value and injury are found, but where no duties can be collected. The bill would revise this wording and is thus designed to put an end to this type of situation which can now arise.

Second. Definitions: The new definitions of certain terms enacted in the Customs Simplification Act of 1956—Public Law 927, 84th Congress—would be incorporated into the Antidumping Act by the bill, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculations of dumping duties. Customs officials would thereby be enabled in large measure to apply a similar set of definitions both in the calculations of ordinary duties and of dumping duties.

Third. Public notice and reports: Provision is made by the bill, as amended, for mandatory public notice when there is reason to believe or suspect sales of imported merchandise at a dumping price, and mandatory public notice by the Treasury Department and the Tariff Commission of their decisions in dumping cases, whether affirmative or negative, and the publication of reports containing the reasons therefor.

The present bill embodies all the amendments which the Treasury Department is prepared to recommend at the present time. The Treasury Department feels that no further amendment of the act is called for in the light of its experience in the administration of the act and that further amendment of the act should be made, if at all, at a future time when its probable results can be more clearly analyzed.

The Committee on Ways and Means received testimony and has had bills referred to it which would involve more extensive amendment to the Antidumping Act than is provided for in the present bill. Suggestions have been advanced for the amendment of the Antidumping Act to provide for a statutory definition of "fair value," definition of the terms "injury" and "industry" to shift the burden of proof, for judicial review of the determinations of the Treasury Department and the Tariff Commission, presidential review of dumping findings, and so forth. Consideration of these aspects of the act would involve reexamination of the basic policy issues involved in antidumping legislation. There is a wide divergence of views as to what the appropriate policy objectives of antidumping legislation should be and how they may best be implemented. Indeed, the views expressed to the Committee on Ways and Means on these matters were often diametrically opposed. Your committee is of the opinion that these matters require careful and detailed study and that amendment of the act in these respects at this time would be premature. The amendments to the Antidumping Act contained in H. R. 6006 are of a technical nature and do not involve any change in the basic policy of the act.

Mr. Speaker, I urge adoption of the bill by the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I yield to the gentleman.

Mr. GROSS. What possible effect would this legislation have upon the dumping of Polish hams in this country?

Mr. COOPER. The same effect it would have on any other merchandise.

Mr. GROSS. Who determines whether a product is being dumped? Is that within the province of the Secretary of Commerce, the President, or whom?

Mr. COOPER. The Secretary of the Treasury. There are two important elements to bear in mind under the antidumping law which was enacted in 1921. The first is that the Secretary of the Treasury must find that there is dumping and the Tariff Commission must find injury to some American industry.

Mr. GROSS. Then is it discretionary with the Secretary of the Treasury?

Mr. COOPER. It is discretionary with the Secretary of the Treasury within the limits set out in the law.

Mr. GROSS. What is this language in the report which apparently gives discretion on the basis of "other circumstances of sale?" Is there wide discretionary power to take in other elements such as foreign policy?

Mr. COOPER. It is discretionary with the Secretary of the Treasury to impose the dumping duties in proper cases. The present bill does not change existing law except to try to make it clearer and to add speed and efficiency to the administration of the present law.

Mr. GROSS. Is this language new—other circumstances of sale—or is that the present law?

Mr. COOPER. My recollection is that that is to conform the antidumping law to language in the customs provisions in the present law.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Pennsylvania.

(Mr. EBERHARTER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. EBERHARTER. Mr. Speaker, I wish to express my objection to the enactment of H. R. 6006. To my mind it represents legislation advanced by the Treasury Department on the basis of inadequate consideration of the issues involved in the Antidumping Act. The Committee on Ways and Means acted in good faith in reporting out this legislation in an effort to accommodate the needs of the Treasury Department as these needs were expressed to the committee by that Department. The committee reports that the amendments to the Antidumping Act incorporated in H. R. 6006 simply constitute technical amendments to the act and do not represent an expression of opinion on the part of the committee as to the policy reflected in the administration of the act by the Treasury Department. I regard that as commendable caution on the part of the committee. Certainly the Treasury Department in its report on the administration of the Antidumping Act made pursuant to a provision of the Customs

Simplification Act of 1956 did not provide any reasoned analysis of the Antidumping Act and the problems that have arisen in its administration. It construed its instructions in the Customs Simplification Act very narrowly. In the face of the controversy that has arisen over the Antidumping Act, it is entirely appropriate for the committee to reserve its judgment on any of the elements of this controversy.

I agree that the whole question of the policy represented by the Antidumping Act and the way in which it is to be implemented deserves the most careful and detailed study. The Treasury Department has not given the matter such study and our committee was not able to give the matter such study under the pressure of business of the first session and in the light of the complexities in the legislation that became apparent during the public hearings which our committee conducted in the last 3 days of July.

I would go further and say that it is even ill advised to enact the present legislation and to put into effect the amendments to the Antidumping Act contained in it. The amendments to the act contained in H. R. 6006 were not, I believe, adequately considered in terms of all their implications and ramifications. The Treasury Department contends that the major amendment contained in H. R. 6006—that is, the change in the definition of the term foreign market value—is required to correct an anomaly in the act. It is quite clear, and the Treasury does not deny it, that this so-called anomaly is of the Treasury Department's own creation and could be rectified by the Treasury Department on its own initiative. Moreover, this anomaly which has been in existence over 2 years as a result of certain Treasury regulations has not embarrassed the Treasury Department at all in the administration of the act to date and the Treasury Department admits that in the foreseeable future its correction will only serve the interest of one small segment of American industry. In this respect this bill constitutes special-interest legislation of the most narrow sort.

Let me say a word about this so-called anomaly that has arisen. It must be understood that in order to find dumping such as to warrant the imposition of dumping duties, the law provides that a class or kind of merchandise must be sold in the United States at less than its fair value and that such sales should be injurious to American industry. If such findings are made then dumping duties can be assessed equal to the difference between the foreign market value of the dumped goods and the price at which they are sold in the United States. The term "fair value" is nowhere defined in the Act. For 34 years—from 1921 when the Act was first enacted until early in 1955—the Treasury Department by regulation defined the term "fair value" as being identical with the term "foreign market value" as defined in the Act. This definition was affirmed by the courts in several cases. Suddenly, in 1955, the Treasury Depart-

ment decided to revise substantially the definition of fair value. To have done so after 34 years of established administration of the Act constituted an arrogation of legislative power on the part of the Treasury Department.

In order to bring the definition of foreign market value into conformity with the Treasury Department's definition of fair value the Congress is asked to amend the definition of foreign market value as it is presently and clearly defined in the law. This is what the Treasury asks us to do in H. R. 6006. It is in effect asking the Congress implicitly to approve of the Treasury Department's action in 1955 in redefining, by regulation, the term "fair value." The Treasury Department has contended insistently that foreign market value had to be redefined by law to remove this anomalous situation. But since the anomaly arose because of the unilateral decision of the Treasury Department, why did not the Treasury Department remove this fictitious anomaly by withdrawing its redefinition of fair value? Cannot the situation arise again in the future where the Treasury Department will again, on its own discretion, revise the basic policy of the Antidumping Act by amending the definition of fair value once again and then come to Congress and ask that this anomalous situation be corrected once again?

Mr. Speaker, can the Congress be in a position of continually accommodating the legislation to the changes in policy in the administration of the Antidumping Act that the Secretary of the Treasury may wish to make at any time in the future? Can it do so without giving regard and attention and study to the question of what the appropriate policy for the Antidumping Act should be? Can it leave that to the Treasury Department and merely perform a cleanup function for that Department? I say it cannot and it should not. I say that the Congress must give careful attention to all the issues involved in the Antidumping Act and its administration and resolve these issues clearly and intelligently by legislation. We should not act on H. R. 6006 until we have done so. We should not accommodate the Treasury's so-called needs in the administration of the Antidumping Act until we have had an opportunity to assess and evaluate the administration of the act by the Treasury. Let me make myself clear. We need an Antidumping Act that will be effective in counteracting unfair and injurious price practices in international trade. But this basic policy objective is not spelled out in the act and the Treasury's administration of the act shows no clear and unambiguous recognition of what the basic policy of the act should be.

The Treasury Department has not been particularly helpful or constructive in identifying and evaluating the policy issues in this act. There are many features of this act about which the Committee on Ways and Means has received detailed comment and detailed suggestions. I am much disturbed, for example, by the absence of any provisions for judicial review of the findings of the

Treasury Department and the Tariff Commission under this act. I do not think that it is good procedure to permit the administrative agencies to exercise wide discretion in the administration of an act and to make decisions that can have far-reaching effects on American citizens and American business without the requirement that these decisions shall be subject to judicial review. I am disturbed that there is no provision in the act such as that contained in the Trade Agreements Act with respect to other procedures for Presidential review of dumping findings. The administration of the Antidumping Act can have far-reaching effects on our international commerce and on our foreign trade relations with many countries. It is an important part of our foreign trade policy and therefore actions recommended under it are properly the subject for Presidential review.

Mr. Speaker, I do not believe that enactment of H. R. 6006 will reflect credit on the Congress. This legislation is not necessary. What is needed is a thoroughgoing review and study of the whole subject of our antidumping legislation and pending such a study no action would be the preferred and desirable course.

Mr. REED. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the Customs Simplification Act of 1956 directed the Secretary of the Treasury after consultation with the United States Tariff Commission to conduct a review of the operation and effectiveness of the Antidumping Act of 1921, as amended, and report to the Congress with respect to his recommendations for amendments to the act which he considered desirable to provide for greater certainty, speed, and efficiency in the enforcement of the act. The legislation before this distinguished body today had its genesis in that study and essentially embodies the legislative recommendations of the Department of the Treasury. The Committee on Ways and Means has considered the legislation in public hearings and of course in executive session.

Mr. Speaker, before commenting on the legislation I would like to commend the Treasury Department for its work on this legislation and particularly commend the distinguished Assistant Secretary of the Treasury, the Honorable David W. Kendall, who directed the effective work done in the preparation of this legislation. Mr. Kendall and his associates who have worked to achieve this distinguished accomplishment can take justifiable pride in the development of this legislation.

The purpose of the Antidumping Act is to protect domestic producers from the injurious effects of the dumping of foreign merchandise in this country. Since its enactment the Antidumping Act has been the subject of little change until 1954 when it was amended to transfer some of the responsibility for the administration of the act to the Tariff Commission. Previous to that time the act had been administered under the exclusive jurisdiction of the Department of the Treasury.

The legislation before the House today can generally be said to make four principal changes in the basic law. These may be briefly enumerated as follows: First, the definition of the term "foreign market value" which is the basis for calculating the special dumping duty, would be amended so as to conform that definition to the definition of "fair value" set forth in the Treasury Department's regulation of April 8, 1957; second, the definition of certain terms contained in the Antidumping Act are changed so as to conform with the new definitions for these same terms which were provided for in the Customs Simplification Act of 1956; third, the adjustment allowed in the foreign market value taking account of quantity discounts would be changed so that considerations could be given to any difference in price due to differences in the quantities sold in the home and United States markets; and fourth, public notice and reports would be required by the Department of the Treasury and by the Tariff Commission of their decisions rendered with respect to dumping cases.

Mr. Speaker, during the work on this legislation by the Committee on Ways and Means in executive session two of the distinguished Republican members of the committee expressed an interest in offering further amendments to the legislation to improve the protection afforded domestic industry against dumping practices. My friends and colleagues, the gentleman from Pennsylvania [Mr. SIMPSON] and the gentleman from Wisconsin [Mr. BYRNES], worked diligently and effectively to accomplish this purpose. Unfortunately time considerations were thought to preclude a thorough consideration of the amendments in which these members were interested. The Treasury Department has been made aware of the nature of these amendments and it is my hope and expectation that the Treasury Department in consultation with the United States Tariff Commission will make a careful study of these amendments during the adjournment period so that the Congress may receive the benefits of such a review when it next convenes.

In its broadest sense dumping is an operation in which a foreign producer temporarily offers his product well below the average market price. This may be done by a foreign producer to relieve him of a large inventory or it may be a planned program the purpose of which is to demoralize the market in a local area by selling below cost to drive out a competitor.

Experience demonstrates that even though the consumer may get a much lower price for an article dumped on our market this is only temporary until our domestic producer is destroyed, then the foreign price is advanced far higher than the domestic price. Many of our domestic industries are suffering destructive competition from abroad as a result of dumping. There are countries that resort to cartels as a means of dumping to kill competition. Tariffs are only partially effective in meeting the cartel threat to our domestic market. To really protect our market from the

dumping of foreign goods requires an effective antidumping law, which I think we have before this House today.

Mr. Speaker, before I close I want to say this: I have been here about 40 years. In the First World War we tried to build up our chemical industry in this country. We did succeed in building it up. Then Germany, after it became rehabilitated after the war, started dumping chemicals here, with the result that it absolutely destroyed every chemical industry in this country. Then we had to start all over again. The result is that now we have a fine chemical industry all through the South and the North, yet we still have a threat from that and some other source. This act is to prevent anything happening such as did happen before.

You will find that that is true of your textiles, too. You will have dumping here in spite of the arrangements that have already been made with other countries. The textile mills of the South are going to be ruined by dumping unless legislation of this nature and some supplemental legislation is enacted to protect this country.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the distinguished gentleman from West Virginia briefly for a question.

Mr. BAILEY. Is it not true that the weakness in this legislation is that it fails to define "injury" and fails to provide any responsible department or individual to determine injury?

Mr. REED. I do not consider this or any other law that we enact as perfect law. It is about the best that could be worked out at the present time. It is something that will have to be studied all the time with changing conditions in the world and depending on what the countries do with their currencies and many other factors, of course. The other countries want to get into this market, the greatest market in the world. I want to say right here and now that our domestic market is the very heart of this Nation. When we surrender our domestic market, we throw our people out of employment. That is what brings on depressions. And it is bound to happen if we surrender our domestic market. These people have been rehabilitated at the expense of billions of dollars. Their machinery has been set up to compete with us and to cut our own throat. The time has come now when we must protect this market or we are going to go down under competition from abroad.

Mr. BAILEY. I agree with the gentleman's desire to protect our small American producers, but I fail to see anything in this legislation which will do that very thing. It does not do it and this legislation is not any better than the existing law.

Mr. REED. Well, I can only say to the gentleman that some people are natural pessimists and do not believe in anything. I do appreciate that my colleague is a strong protectionist.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mr. GROSS. I, too, agree with the gentleman from New York in his desire to protect American industry and American production. At the moment, I am very much concerned with this trade deal that has been started with Poland. What are we going to get dumped on us from Communist Poland now by virtue of this \$90 million to \$100 million trade deal that the executive department is just embarking on?

Mr. REED. So far as that is concerned, we are going to have trouble from every country where they have cheaper labor than we have and where they have all this machinery which we have financed in those countries. This is only a step in the right direction to see if we cannot stop this. This will take care of your Polish ham situation.

Mr. GROSS. I am glad to take the gentleman's word for it. I regret that I am not better informed on the provisions of this bill, but I am glad to take the gentleman's word for it, that this is a step in the right direction. My concern is whether it even begins to go far enough to meet the situation that is presently before us, and the potential dangers of the situation.

Mr. REED. I agree with the gentleman that there is a dangerous situation developing all the time in this country. We have to protect this market. I have been in the Congress a long time. I have seen what has happened to industries in this country. I know what is happening to some of our industries now and not confined to any special part of the country, but all over the country. What we are trying to do is to protect our American industry. I have worked for protection here in the Congress for the full 40 years that I have been here. I have worked for protection every minute that I have been here. I have always worked to protect our markets.

Mr. GROSS. For instance, in this Polish trade deal, as I understand it, we ship the Poles machine tools, electronic equipment, and other products of our highly skilled industries. Apparently machine tools are no longer considered to be strategic. And in return for that, we get Polish hams and textiles and a long list of other products already in adequate or surplus supply from our own farms, industry, and labor.

Mr. REED. Well, I know that we have somebody to blame in this country for that. I remember in Italy seeing our tractors there which they could not use because the gasoline to run most of the tractors was about a dollar a gallon and they could not afford to use them. The tractors were rusting away and rotting away. That is what has been happening right along. I saw \$10 million worth of machinery in a warehouse in Greece which they could not use. They bought back this machinery at a nominal sum and it was sold at a low price to people and it just sends the price up for our people here at home. I know something about these things that are going on.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mr. BROWN of Ohio. I have asked the gentleman from New York to yield

simply because I want to say that having had the pleasure of serving with the gentleman from New York for 20 years, I have never seen a Member of this House who has worked more diligently throughout his career in the Congress to protect American labor and industry from unfair foreign competition. The gentleman from New York is the dean of Republicans in this House. He has served ably and well and I, as one Member of the Congress, am willing to accept the statements he has made here on the floor of the House with reference to this legislation being the best that we could get under the circumstances. I am happy to note that the gentleman from New York says there is still much to be done, and that he will be on the alert as usual to do whatever he can to protect us from foreign competition.

Mr. REED. I thank the distinguished gentleman from Ohio for his kind remarks.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mrs. ROGERS of Massachusetts. I say amen, amen, and amen to the observation of the gentleman from Ohio. The work of the gentleman from New York [Mr. REED] has been outstanding. He has worked ceaselessly. Not only for the protection of industry and labor in the United States but for the general welfare of the country. He is a great American and patriot, a man of great ability and integrity. The Congress can point with great pride that he is one of our Members.

Mr. REED. I thank the gentlewoman. I cannot plead guilty to all of these fine compliments, but they do sound pleasing to me.

Mr. Speaker, in closing I would like to express before the membership of the House of Representatives my compliments to the distinguished chairman of the House Committee on Ways and Means, the gentleman from Tennessee [Mr. COOPER], on the manner in which he guided the committee's work on this subject and on the fairness and effectiveness which he has served as chairman during the 84th Congress and the 1st session of the 85th Congress. I am confident that I speak for the entire membership of the committee when I state that the leadership of the gentleman from Tennessee has been an inspiration to us all.

Mr. COOPER. Mr. Speaker, I yield myself 1 minute simply in order to express my sincere appreciation to my distinguished colleague, the gentleman from New York, for his very kind and generous remarks.

Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks at this point in the RECORD on the pending bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks in the RECORD on the pending bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. REED. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Wisconsin [Mr. BYRNES].

(Mr. BYRNES of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. BYRNES of Wisconsin. Mr. Speaker, as has just been said by the gentleman from New York [Mr. REED], this bill is a step in the right direction. I voted for the bill in the committee, and it is my intention to vote to suspend the rules and pass it at this time.

I believe the bill will aid somewhat in the making of determinations as to whether or not commodities are being offered for sale in this country at less than fair value. I believe it may speed up some of the determinations in that area as made by the Treasury Department.

But even though it is a step in the right direction, Mr. Speaker, it is a very small step, and there are some real long steps that should be taken if we are really going to afford American industry protection against discriminatory practices.

This bill does not have anything to do with the normal problems of the import and export trade, the problems that we normally try to correct by tariffs, such as the low cost of production in other countries as opposed to cost of production here; this bill deals with the subject of discriminatory prices. The antidumping law is supposed to protect domestic industry from the unfair practice of a foreign competitor offering a commodity for sale in this country at a price lower than he offers it in the markets of the world or in his home markets. This results in unfair competition with domestic industry. At times foreign-produced items are even offered for sale here below their cost of production.

That is the type of thing the antidumping act is supposed to attack and give protection against. But, Mr. Speaker, I say that even with this bill we are not going to give the industry of this country the protection it needs against discrimination of this kind and against unfair trade practices.

We are not asking in this bill, nor is anybody who asks for a stronger antidumping bill, seeking to have an advantage given to our domestic producers, even though we feel they are entitled to a certain advantage over foreign producers; we are just asking that by and large in the market place they be treated fairly and squarely, and that we protect them against unfair practices, one of which certainly is discriminatory prices.

Under present law there first must be a determination by the Treasury Department as to whether there is a sale at less than fair value. That in itself, however, does not give anybody any protection; they still have to go to the Tariff Commission and get a determination that an industry in this country is being injured. There is the crux of the matter, the difficulty of proving in many of these cases that injury actually is resulting or is likely to result. It is my

view, Mr. Speaker, that corrective action must be taken in that area.

In the committee I offered an amendment to this bill to provide that dumping duties shall be applied unless there is a finding by the Tariff Commission that nobody would be injured. At the present time you start out with the assumption that even though a sale is being made below fair value, even though there is price discrimination, that no injury will result. The law requires that the matter must be referred to the Tariff Commission and no protection is afforded unless the commission makes an affirmative finding that an industry is being injured by the discriminatory practice. That is where you get into trouble.

I would suggest Mr. Speaker, that starting with the premise that price discrimination, sales here of foreign commodities at less than fair value, is bad, we should provide that antidumping duties should be imposed unless there is a showing that nobody is likely to be injured by the price discrimination. There is no purpose to be served in applying an antidumping duty if no domestic producer is likely to be injured by it. However, if we assume, as we certainly should, that the practice of offering foreign made goods for sale here in competition with domestic producers at less than fair value is unfair and practices that should be frowned upon, why should not corrective action be automatic rather than to be dependent upon the difficulties that result under the present law which requires a positive finding by the Tariff Commission that some industry is going to suffer injury.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from West Virginia.

Mr. BAILEY. I would like to commend the gentleman from Wisconsin for his views. He has done much to enlighten the Members of the House on this legislation and I believe if his amendment had been adopted it would have been wholesome legislation.

Mr. BYRNES of Wisconsin. I thank the gentleman. I hope that we pass this bill today and I trust that the other body will try to attack this matter of making the injury test effective in the protection of our industries. Unless something is done in this regard the law will never be administered so as to carry out the basic intent of Congress which is that domestic industry shall not be injured by unfair practices.

Mr. COOPER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

MODIFICATION AND EXTENSION OF PROGRAM OF GRANTS-IN-AID TO THE REPUBLIC OF THE PHILIPPINES FOR THE HOSPITALIZATION OF CERTAIN VETERANS

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the

bill (H. R. 6908) to authorize modification and extension of the program of grants-in-aid to the Republic of the Philippines for the hospitalization of certain veterans, to restore eligibility for hospital and medical care to certain veterans of the Armed Forces of the United States residing in the Philippines, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to assist by grants-in-aid the Republic of the Philippines in providing medical care and treatment for certain veterans", approved July 1, 1948 (50 App. U. S. C., secs. 1991-1996), is amended by striking out the first four sections therein and inserting in lieu thereof the following: "That the President is authorized to assist the Republic of the Philippines in providing medical care and treatment for veterans in need of such care and treatment for service-connected disabilities through grants for a period of not more than 10 consecutive years, beginning with the year 1950, to reimburse the Republic of the Philippines for expenditures incident to the hospitalization of veterans in need thereof for service-connected disabilities. The total of such grants for any 1 calendar year shall not exceed the following amounts: For any year before 1955, \$3,285,000; for 1955, \$3 million; for 1956, \$2,500,000; for 1957, \$2 million; for 1958, \$1,500,000; and for 1959, \$1 million. If agreement is reached to modify the plan of assistance as provided for in paragraph (1) of section 2 of this act, the grants covering the first half of 1958 may be as much as \$1 million.

"Sec. 2. The President, with the concurrence of the Republic of the Philippines, is authorized to modify the existing agreement between the United States and the Republic of the Philippines entered into to effectuate this act in either or both of the following respects:

"(1) To provide that in lieu of any grants being made after July 1, 1958, under section 1 of this act, the Administrator of Veterans' Affairs may enter into a contract with the Veterans' Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines under which the United States will pay for hospital care in the Republic of the Philippines of veterans determined by the Veterans' Administration to need such hospital care for service-connected disabilities. Such contract must be entered into before July 1, 1958, may be for a period of not more than 5 consecutive fiscal years beginning July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2 million for any one fiscal year. In addition, such modified agreement may provide that, during the period covered by such contract, outpatient treatment for veterans determined by the Veterans' Administration to be in need thereof for service-connected disabilities shall be provided by the Veterans' Administration under the conditions and subject to the limitations on outpatient treatment applicable generally to beneficiaries under Veterans Regulation No. 7 (a). In addition, such agreement may provide for the payment of travel expenses pursuant to the first section of the act of March 14, 1940 (54 Stat. 49; 48 U. S. C. 76), in connection with hospital care or outpatient treatment furnished them.

"(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for the hospitalization of veterans for service-connect-

ed disabilities, for the hospitalization of persons at the discretion of the Republic of the Philippines. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded veterans needing hospitalization for service-connected disabilities, and (B) shall not preclude the use of available facilities in the hospital on a contract basis for the hospitalization, examination, or outpatient treatment of persons eligible therefrom the Veterans' Administration.

"Sec. 3. The Veterans' Administration is authorized to provide the outpatient treatment specified in paragraph (1) of section 2 either through facilities maintained by the Veterans' Administration in the Republic of the Philippines or by contracting for such outpatient care.

"Sec. 4. For the purposes of this act the term—

"(1) 'veterans' means persons who served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President of the United States, dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable;

"(2) 'service-connected disabilities' means disabilities determined by the Veterans' Administration under laws which it administers to be connected with the service described in paragraph (1) of this section."

Sec. 2. Such act is further amended by adding at the end thereof the following new section:

"Sec. 7. The amendments made to the first four sections of this act by the act enacting this section shall not affect the availability and use of appropriations made before the date of enactment of this section for the purposes of this act as it then existed."

Sec. 3. (a) Paragraph IV of Veterans Regulation No. 6 (a), as amended (38 U. S. C. Ch. 12A), is hereby amended by inserting after "Provided, That" the following: "the Administrator of Veterans' Affairs may, in his discretion, furnish medical or hospital care, including treatment in the Republic of the Philippines for disabilities due to service in the Armed Forces of the United States to otherwise eligible veterans, irrespective of citizenship status or nature of residence: And provided further, That."

(b) Section 524 of the Veterans' Benefits Act of 1957 is amended to read as follows: "Hospital care and medical services abroad

"SEC. 524. (a) Except as provided in subsections (b) and (c), the Administrator shall not furnish hospital or domiciliary care or medical services outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States.

"(b) The Administrator may furnish necessary hospital care and medical services for any service-connected disability—

"(1) if incurred during a period of war, to any veteran who is a citizen of the United States temporarily sojourning or residing abroad except in the Republic of the Philippines; or

"(2) whenever incurred, to any otherwise eligible veteran in the Republic of the Philippines."

"(c) Within the limits of those facilities of the Veterans Memorial Hospital at Manila, Republic of the Philippines, for which the Administrator may contract, he may furnish necessary hospital care to a veteran of any war for any non-service-connected

disability if such veteran is unable to defray the expenses of necessary hospital care. The Administrator may enter into contracts to carry out this section."

(c) Section 521 of the Veterans' Benefits Act of 1957 is amended by striking out "section 510 (a) (1) and section 510 (b) (2)" and inserting "sections 510 (a) (1), 510 (b) (2), and 524 (c)."

SEC. 4. (a) Title V of the Veterans' Benefits Act of 1957 is amended by adding at the end thereof the following new part:

"PART D—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

"Grants to the Republic of the Philippines

"SEC. 531. The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans in need of such care and treatment for service-connected disabilities through grants to reimburse the Republic of the Philippines for expenditures incident to hospital care of Commonwealth Army veterans in need thereof for such disabilities. The total of such grants shall not exceed \$1,500,000 for the calendar year 1958, and \$1,000,000 for the calendar year 1959. If agreement is reached to modify the plan of assistance as provided for in paragraph (1) of section 532, the total of grants for 1958 up to July 1 may be as much as \$1,000,000.

"Modification of agreement with the Republic of the Philippines effectuating the act of July 1, 1948

"SEC. 532. The President, with the concurrence of the Republic of the Philippines, is authorized to modify the agreement between the United States and the Republic of the Philippines respecting hospitals and medical care for Commonwealth Army veterans (63 Stat. 2593) in either or both of the following respect:

"(1) To provide that in lieu of any grants being made after July 1, 1958, under section 531, the Administrator may enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, under which the United States will pay for hospital care in the Republic of the Philippines of Commonwealth Army veterans determined by the administrator to need such hospital care for service-connected disabilities. Such contract must be entered into before July 1, 1958, may be for a period of not more than five consecutive fiscal years beginning July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2,000,000 for any 1 fiscal year. In addition, such modified agreement may provide that, during the period covered by such contract, medical services for Commonwealth Army veterans determined by the administrator to be in need thereof for service-connected disabilities shall be provided either in Veterans' Administration facilities, or by contract, or otherwise, by the administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 512.

"(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans needing hospital

care for service-connected disabilities, and (B) shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

In addition, such agreement may provide for the payment of travel expenses pursuant to section 2101 for Commonwealth Army veterans in connection with hospital care or medical services furnished them.

"Supervision of program by the President

"SEC. 533. The President, or any officer of the United States to whom he may delegate his authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this part.

"Definitions

"SEC. 534. For the purposes of this part—

"(1) The term 'Commonwealth Army veterans' means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

"(2) The term 'service-connected disabilities' means disabilities determined by the administrator under laws administered by the Veterans' Administration to have been incurred in or aggravated by the service described in paragraph (1) in line of duty."

SEC. 5. Section 2105 (a) of the Veterans' Benefits Act of 1957 is amended by inserting immediately after "1941," the following: "including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific area, or other competent authority in the Army of the United States."

SEC. 6. Section 2306 of the Veterans' Benefits Act of 1957 is amended by inserting "(a)" immediately after "SEC. 2306," and by adding at the end thereof the following new subsection:

"(b) The availability and use of appropriations heretofore made for the purposes of the act of July 1, 1948 (60 Stat. 1210; 50 App. U. S. C., secs. 1991-1996), shall not be affected by the repeal of such act."

SEC. 7. Paragraph (203) of section 2202 of the Veterans' Benefits Act of 1957 is amended (1) by inserting "(A)" immediately after "(203)"; (2) by striking out "1938" and inserting "1948"; and (3) by adding at the end thereof the following:

"(B) The act of July 1, 1948 (62 Stat. 1210; 50 App. U. S. C., secs. 1991-1996)."

SEC. 8. The table of contents in the first section of the Veterans' Benefits Act of 1957 is amended by inserting immediately below:

"SEC. 527. Persons eligible under prior law." the following:

"PART D—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

"SEC. 531. Grants to the Republic of the Philippines.

"SEC. 532. Modification of agreement with the Republic of the Philippines effectuating the act of July 1, 1948.

"SEC. 533. Supervision of program by the President.

"SEC. 534. Definitions."

The SPEAKER. Is a second demanded?

Mrs. ROGERS of Massachusetts. Mr. Speaker, I demand a second.

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, in the 80th Congress, Public Law 865 was enacted to provide medical care for veterans who served in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President on July 26, 1941. This law authorized an appropriation of \$22,500,000 for the construction and equipping of a hospital in the Philippines to be known as the Veterans' Memorial Hospital. It was opened on November 20, 1955, and the construction cost was approximately \$9,400,000.

The same act provided for an appropriation of not more than \$3,285,000 as grants-in-aid during each of the ensuing 5 fiscal years for the operation of the hospital and the treatment of service-connected disabled veterans.

This hospital has operated well and has met a real need of these people who fought in behalf of the United States. In addition, it has served as a teaching hospital in a limited fashion for medical personnel in Southeast Asia. It is considered one of the best, if not the best, hospitals in that entire area.

While the American Government has a continuing responsibility in this field, the Philippine Government in fact and in theory controls this hospital and this is as it should be. The present bill is an effort to make the fact more abundantly clear by providing:

First. That the Veterans' Memorial Hospital may be used for cases other than those involving service-connected disabilities.

Second. Authorizing treatment of service-connected veterans on an outpatient basis.

Third. Extending the period of assistance from December 31, 1959, to June 30, 1963.

Fourth. Placing overall ceiling of \$2 million for this purpose in any 1 year.

The bill also authorizes the treatment of American veterans who are in need of hospital care and who are residing, either temporarily or permanently, in the Philippines. Formerly such care was provided only for those residing there on a temporary basis. In this connection, the separate amendment which I have offered at the direction of the committee, provides that veterans suffering from non-service-connected disabilities who need medical care and who reside there shall be treated the same as veterans residing in the United States insofar as non-service-connected hospital care is concerned.

The bill is recommended by the Veterans Administration, as well as the Department of State and it is estimated that the maximum net cost of this bill

85TH CONGRESS
1ST SESSION

H. R. 6006

IN THE SENATE OF THE UNITED STATES

AUGUST 30, 1957

Read twice and referred to the Committee on Finance

AN ACT

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921 (19 U. S. C.
4 160), is amended as follows:

5 (1) By striking out "he shall forthwith authorize"
6 in subsection (b) and inserting in lieu thereof "he shall
7 forthwith publish notice of that fact in the Federal
8 Register and shall authorize".

9 (2) By adding at the end of such section the fol-
10 lowing new subsection:

1 “(c) The Secretary, upon determining whether foreign
2 merchandise is being, or is likely to be, sold in the United
3 States at less than its fair value, and the United States
4 Tariff Commission, upon making its determination under
5 subsection (a) of this section, shall each publish such deter-
6 mination in the Federal Register, with a statement of the
7 reasons therefor, whether such determination is in the affirm-
8 ative or in the negative.”

9 SEC. 2. Subsections (b) and (c) of section 202 of the
10 Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)),
11 are amended to read as follows:

12 “(b) In determining the foreign market value for the
13 purposes of subsection (a), if it is established to the satis-
14 faction of the Secretary or his delegate that the amount of
15 any difference between the purchase price and the foreign
16 market value (or that the fact that the purchase price is
17 the same as the foreign market value) is wholly or partly
18 due to—

19 “(1) the fact that the wholesale quantities, in which
20 such or similar merchandise is sold or, in the absence of
21 sales, offered for sale for exportation to the United States
22 in the ordinary course of trade, are less or are greater
23 than the wholesale quantities in which such or similar
24 merchandise is sold or, in the absence of sales, offered
25 for sale in the principal markets of the country of ex-

1 portation in the ordinary course of trade for home con-
2 sumption (or, if not so sold or offered for sale for home
3 consumption, then for exportation to countries other
4 than the United States),

5 “(2) other differences in circumstances of sale, or

6 “(3) the fact that merchandise described in sub-
7 division (C), (D), (E), or (F) of section 212 (3) is
8 used in determining foreign market value,

9 then due allowance shall be made therefor.

10 “(c) In determining the foreign market value for the
11 purposes of subsection (a), if it is established to the satisfac-
12 tion of the Secretary or his delegate that the amount of any
13 difference between the exporter’s sales price and the foreign
14 market value (or that the fact that the exporter’s sales price
15 is the same as the foreign market value) is wholly or partly
16 due to—

17 “(1) the fact that the wholesale quantities in
18 which such or similar merchandise is sold or, in the ab-
19 sence of sales, offered for sale in the principal markets
20 of the United States in the ordinary course of trade, are
21 less or are greater than the wholesale quantities in
22 which such or similar merchandise is sold or, in the ab-
23 sence of sales, offered for sale in the principal markets
24 of the country of exportation in the ordinary course of
25 trade for home consumption (or, if not so sold or offered

1 for sale for home consumption, then for exportation to
2 countries other than the United States),

3 “(2) other differences in circumstances of sale, or

4 “(3) the fact that merchandise described in subdi-
5 vision (C), (D), (E), or (F) of section 212 (3) is
6 used in determining foreign market value,

7 then due allowance shall be made therefor.”

8 SEC. 3. The heading and text of section 205 of the
9 Antidumping Act, 1921 (19 U. S. C. 164), are amended to
10 read as follows:

11 “FOREIGN MARKET VALUE

12 “SEC. 205. For the purposes of this title, the foreign
13 market value of imported merchandise shall be the price, at
14 the time of exportation of such merchandise to the United
15 States, at which such or similar merchandise is sold or, in
16 the absence of sales, offered for sale in the principal markets
17 of the country from which exported, in the usual wholesale
18 quantities and in the ordinary course of trade for home con-
19 sumption (or, if not so sold or offered for sale for home con-
20 sumption, or if the Secretary determines that the quantity
21 sold for home consumption is so small in relation to the
22 quantity sold for exportation to countries other than the
23 United States as to form an inadequate basis for comparison,

1 then the price at which so sold or offered for sale for expor-
2 tation to countries other than the United States), plus, when
3 not included in such price, the cost of all containers and
4 coverings and all other costs, charges, and expenses incident
5 to placing the merchandise in condition packed ready for
6 shipment to the United States, except that in the case of
7 merchandise purchased or agreed to be purchased by the
8 person by whom or for whose account the merchandise is
9 imported, prior to the time of exportation, the foreign market
10 value shall be ascertained as of the date of such purchase or
11 agreement to purchase. In the ascertainment of foreign
12 market value for the purposes of this title no pretended sale
13 or offer for sale, and no sale or offer for sale intended to
14 establish a fictitious market, shall be taken into account. If
15 such or similar merchandise is sold or, in the absence of sales,
16 offered for sale through a sales agency or other organization
17 related to the seller in any of the respects described in
18 section 207, the prices at which such or similar merchandise
19 is sold or, in the absence of sales, offered for sale by such sales
20 agency or other organization may be used in determining
21 the foreign market value.”

22 SEC. 4. (a) The heading and text of section 206 of the

1 Antidumping Act, 1921 (19 U. S. C. 165), are amended
2 to read as follows:

3 "CONSTRUCTED VALUE

4 "SEC. 206. (a) For the purposes of this title, the con-
5 structed value of imported merchandise shall be the sum of—

6 " (1) the cost of materials (exclusive of any internal
7 tax applicable in the country of exportation directly to
8 such materials or their disposition, but remitted or
9 refunded upon the exportation of the article in the pro-
10 duction of which such materials are used) and of
11 fabrication or other processing of any kind employed
12 in producing such or similar merchandise, at a time
13 preceding the date of exportation of the merchandise
14 under consideration which would ordinarily permit the
15 production of that particular merchandise in the ordinary
16 course of business;

17 " (2) an amount for general expenses and profit
18 equal to that usually reflected in sales of merchandise
19 of the same general class or kind as the merchandise
20 under consideration which are made by producers in
21 the country of exportation, in the usual wholesale quan-
22 tities and in the ordinary course of trade, except that
23 (A) the amount for general expenses shall not be less
24 than 10 per centum of the cost as defined in paragraph
25 (1), and (B) the amount for profit shall not be less

1 than 8 per centum of the sum of such general expenses
2 and cost; and

3 “(3) the cost of all containers and coverings of
4 whatever nature, and all other expenses incidental to
5 placing the merchandise under consideration in condi-
6 tion, packed ready for shipment to the United States.

7 “(b) For the purposes of this section, a transaction di-
8 rectly or indirectly between persons specified in any one
9 of the paragraphs in subsection (c) of this section may be
10 disregarded if, in the case of any element of value required
11 to be considered, the amount representing that element does
12 not fairly reflect the amount usually reflected in sales in
13 the market under consideration of merchandise of the same
14 general class or kind as the merchandise under consideration.
15 If a transaction is disregarded under the preceding sentence
16 and there are no other transactions available for considera-
17 tion, then the determination of the amount required to be
18 considered shall be based on the best evidence available as
19 to what the amount would have been if the transaction had
20 occurred between persons not specified in any one of the
21 paragraphs in subsection (c).

22 “(c) The persons referred to in subsection (b) are:

23 “(1) Members of a family, including brothers and
24 sisters (whether by the whole or half blood), spouse,
25 ancestors, and lineal descendants;

1 “(B) in the ordinary course of trade to one or
2 more selected purchasers at wholesale at a price
3 which fairly reflects the market value of the mer-
4 chandise,

5 without regard to restrictions as to the disposition or
6 use of the merchandise by the purchaser except that,
7 where such restrictions are found to affect the market
8 value of the merchandise, adjustment shall be made
9 therefor in calculating the price at which the merchan-
10 dise is sold or offered for sale.

11 “(2) The term ‘ordinary course of trade’ means
12 the conditions and practices which, for a reasonable
13 time prior to the exportation of the merchandise under
14 consideration, have been normal in the trade under
15 consideration with respect to merchandise of the same
16 class or kind as the merchandise under consideration.

17 “(3) The term ‘such or similar merchandise’ means
18 merchandise in the first of the following categories in
19 respect of which a determination for the purposes of
20 this title can be satisfactorily made:

21 “(A) The merchandise under consideration and
22 other merchandise which is identical in physical
23 characteristics with, and was produced in the same
24 country by the same person as, the merchandise un-
25 der consideration.

1 “(B) Merchandise which is identical in physi-
2 cal characteristics with, and was produced by
3 another person in the same country as, the mer-
4 chandise under consideration.

5 “(C) Merchandise (i) produced in the same
6 country and by the same person as the merchandise
7 under consideration, (ii) like the merchandise under
8 consideration in component material or materials
9 and in the purposes for which used, and (iii) ap-
10 proximately equal in commercial value to the
11 merchandise under consideration.

12 “(D) Merchandise which satisfies all the re-
13 quirements of subdivision (C) except that it was
14 produced by another person.

15 “(E) Merchandise (i) produced in the same
16 country and by the same person and of the same
17 general class or kind as the merchandise under con-
18 sideration, (ii) like the merchandise under consid-
19 eration in the purposes for which used, and (iii)
20 which the Secretary or his delegate determines may
21 reasonably be compared for the purposes of this
22 title with the merchandise under consideration.

23 “(F) Merchandise which satisfies all the re-
24 quirements of subdivision (E) except that it was
25 produced by another person.

1 “(4) The term ‘usual wholesale quantities’, in any
2 case in which the merchandise in respect of which value
3 is being determined is sold in the market under consider-
4 ation at different prices for different quantities, means
5 the quantities in which such merchandise is there sold
6 at the price or prices for one quantity in an aggregate
7 volume which is greater than the aggregate volume sold
8 at the price or prices for any other quantity.”

9 SEC. 6. The amendments made by this Act shall apply
10 with respect to all merchandise as to which no appraisement
11 report has been made on or before the date of the enactment
12 of this Act; except that such amendments shall not apply
13 with respect to any merchandise which—

14 (1) was exported from the country of exportation
15 before the date of the enactment of this Act, and

16 (2) is subject to a finding under the Antidumping
17 Act, 1921, which (A) is outstanding on the date of
18 enactment of this Act, or (B) was revoked on or before
19 the date of the enactment of this Act, but is still appli-
20 cable to such merchandise.

Passed the House of Representatives August 29, 1957.

Attest:

RALPH R. ROBERTS,
Clerk.

85TH CONGRESS
1ST SESSION

H. R. 6006

AN ACT

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

AUGUST 30, 1957

Read twice and referred to the Committee on Finance

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 21, 1958
For actions of May 20, 1958
85th-2d, No. 79

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HIGHLIGHTS: Several Representatives commended, others criticized, Administration farm policies. House passed Commerce appropriation bill.

HOUSE

1. APPROPRIATIONS. Passed with amendments H. R. 12540, the Commerce Department and related agencies appropriation bill for 1959. pp. 8104-14
A point of order by Rep. Jones, Ala., was sustained against language in the bill which would have provided that \$30,000,000 for forest highways was "to be derived from the 'Highway trust fund;'" pp. 8108-10
Agreed to an amendment by Rep. Preston to strike out language in the bill which would have provided that unexpended balances as of June 30, 1958, and prior fiscal years, for forest highways, would be rescinded and revert to the general fund. Rep. Preston explained that the amendment was necessary due to the point of order by Rep. Jones. p. 8111
Rep. Preston stated that the Committee report on the bill "emphasized the fact that the Weather Bureau should not ignore the needs of agricultural weather reporting. When it was transferred from the Department of Agriculture to the Department of Commerce, the message of the President emphasized the fact that although that transfer was being made, perhaps in the interest of aviation, it should not neglect its service to agriculture." p. 8107
The "Daily Digest" states that "conferees, in executive session, agreed to file a conference report on the differences between the Senate- and House-passed versions of H. R. 10746, fiscal 1959 appropriations for the Department of the Interior and related agencies." The bill includes funds for the Forest

Service. p. D441

2. FARM PROGRAM. Rep. Hiestand and others commended Administration farm policies and urged enactment of the President's legislative program for agriculture. Other Representatives criticized Administration farm policies. pp. 8116-20, 8124-27 .
3. STATEHOOD. Rep. O'Brien urged enactment of legislation to grant statehood to Alaska. pp. 8103-04
4. FOREIGN TRADE. Rep. Dellay inserted an American Legion resolution urging Congress "to enact legislation that will prevent injury to and liquidation of industries essential to the defense and the economic welfare of our country." pp. 8115-16
Received a Me. Legislature memorial recommending that Congress provide in the "trade agreements legislation now before its adequate safeguards to remedy injury to domestic industry through import quotas and an effective legal control." p. 8133
Received a N. Y. League of Women Voters petition urging extension of the Reciprocal Trade Agreements Act. p. 8133
5. PLYWOOD IMPORTS. Rep. Porter defended the policy of permitting the importation of plywood from Japan. pp. 8127-28
6. SMALL BUSINESS. Rep. Patman spoke in favor of legislation to create a system of small business capital banks. pp. 8128-31
7. EXPORT CONTROL. Received from the Commerce Department a quarterly report on export control. p. 8132
8. LOBBYING. Received from the Clerk of the House and the Secretary of the Senate the quarterly report on lobbying. pp. 8134-64

SENATE

9. IMPORTS. The Finance Committee ordered reported with amendments H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. p. D438
10. SMALL BUSINESS. The Small Business Subcommittee ordered reported to the Banking and Currency Committee with amendment S. 3651, the proposed Small Business Investment Administration Act of 1958. p. D438

ITEMS IN APPENDIX

11. WOOL. Rep. Lane inserted a letter criticizing an ICA grant to Pakistan for the purchase of wool tops. pp. A4607-8
12. WATER POLLUTION. Extension of remarks of Rep. Edmondson urging Congress to reject the President's recommendation that the water pollution control program be stopped, and supporting a proposal to enlarge it. p. A4620
13. CORN. Rep. Coad inserted a farmer's letter criticizing the operation of the soil bank and acreage allotment programs. p. A4627

Senate May 21, 1958

16. COTTON. Passed without amendment H. R. 6765, to repeal the prohibition against cotton acreage reports based on farmers' planting intentions. This bill will now be sent to the President. pp. 8216, 1233
17. RESEARCH; WILDLIFE. At the request of Sen. Hruska, passed over S. 2447, to authorize studies of the effects of insecticides upon fish and wildlife. p. 8212
18. SALINE WATER. At the request of Sen. Talmadge passed over S. J. Res. 135, to authorize the Interior Department to construct and operate a salt-water conversion demonstration plant. p. 8212
19. FARM PROGRAM. The Agriculture and Forestry Committee ordered reported the following bills:
 - An original bill authorizing transfer of cotton acreage allotments from lands which cannot be planted to other lands in 1958;
 - S. 1436, with amendment, to amend various provisions of law regarding ASC committees;
 - H. R. 376, to prohibit trading in onion futures on commodity exchanges;
 - H. R. 7953, to facilitate and simplify the work of the Forest Service;
 - H. R. 5497, to authorize Federal assistance for certain fish and wildlife development projects under the Watershed Protection and Flood Prevention Act; and
 - H. R. 11399, to authorize the Secretary to set the level of price support for extra-long-staple cotton at between 60 to 75 percent of parity. p. D344
20. IMPORTS. The Finance Committee reported with amendments H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Anti-dumping Act (S. Rept. 1619). p. 8170
21. INFORMATION. The Judiciary Committee reported without amendment S. 921, to prevent the use of 5 U. S. C. 22 to withhold information. p. 8170
22. RECLAMATION. Passed as reported S. 2215, to authorize the Interior Department to construct, operate, and maintain the Spokane Valley Project. p. 8200
23. FLOOD CONTROL. Sen. Kuchel urged the Senate to act on the flood control authorization bill vetoed by the President, and inserted various communications on the need for such projects in Calif. pp. 8242-6
24. POSTAL RATES AND PAY. Agreed to and sent to the House the conference report on H. R. 5836, the postal rate and pay increase bill, by a vote of 88 to 0. pp. 8227-33
25. STATEHOOD. Sen. Church urged Alaskan statehood, and inserted a letter he wrote to the President to urge his support for the bill. p. 8251
26. FOREIGN AID. The Foreign Relations Committee began consideration of the proposed Mutual Security Act of 1958, and adopted a policy statement that it was the sense of Congress that India be given support in its economic development program. pp. D445-6
27. FOREIGN TRADE. Sen. Morse inserted a summary of Ore. opinion ballots on certain public questions, including support for world trade policies in line with Administration-backed proposals. pp. 8191-4

28. EXPORT CONTROL. Received from the Commerce Department a report on export control for the first quarter of 1958. p. 8169
29. ARBOR DAY. Sen. Javits inserted a resolution of the Greene County, N. Y., Board of Supervisors, urging establishment of a National Arbor Day. p. 8169

ITEMS IN APPENDIX

30. RESEARCH. Sen. Knowland inserted his address before the American Feed Growers Ass'n discussing "pertinent" farm facts and suggesting certain action toward an improved farm program. pp. A4649-51
31. PRICES. Sen. Javits inserted excerpts from Ewan Clague's, Dept. of Labor, speech, "The Consumer Price Index in the Current Price Situation." pp. A4660-1
32. AREA DEVELOPMENT. Extension of remarks of Sen. Thurmond expressing his opposition to the proposed area redevelopment bill. p. A4663
33. TRANSPORTATION. Sen. Wiley inserted a letter from the General Steamship Agencies pointing out the "tremendously impressive savings which have been already realized, thanks to the movement of surplus farm products via the direct, all-water route from the Midwest through the present St. Lawrence seaway." pp. A4669-70
34. FOREIGN AID. Extension of remarks of Sen. Dworshak inserting an editorial urging reappraisal of the foreign aid program. pp. A4675-6
Rep. Chipperfield inserted an editorial and a report by Rep. Bass favoring the foreign aid program. pp. A4691-2, A4707
35. ELECTRIFICATION. Sen. Sparkman inserted an editorial, "TVA's Challenge--After 25 Years." pp. A4679-80
36. LIVESTOCK. Rep. Polk inserted an editorial, "Meat Promotion Up Again," emphasizing the need of "being sure any meat promotion moves are right before they are made." pp. A4685-6
37. STATEHOOD. Rep. Poage inserted a letter he had written pointing out "what seems to be : : : an obvious weakness in the pending statehood bill." pp. A4687-88
38. TOBACCO. Rep. Lankford inserted two articles discussing the growth and marketing of tobacco in Md. pp. A4694-95
39. FARM PROGRAM. Extension of remarks of Rep. Schwengel discussing farm policies, in which he states that "it is becoming increasingly clear that political management of agriculture does not work very well," and inserting a magazine article discussing farm conditions. pp. A4706-07
40. FARM DRAINAGE; WILDLIFE. Extension of remarks of Rep. Reuss urging the enactment of legislation to restrict farm draining projects harmful to wildlife, stating that "there is not the slightest doubt that the Department of Agriculture's farm drainage program, as administered under existing law, has in many cases worked directly counter to the best interests of wildlife, water, and even soil conservation," and inserting an article and letter discussing the matter. pp. A4717-18

Calendar No. 1649

85TH CONGRESS }
2d Session }

SENATE

{

REPORT
No. 1619

ANTIDUMPING ACT, 1921

MAY 21, 1958.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6006]

The Committee on Finance, to whom was referred the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

COMMITTEE AMENDMENTS

The Finance Committee added the following language after the second sentence of subsection (a):

For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if (A) the Commissioners of the said Commission voting are evenly divided as to whether its determination should be

in the affirmative or in the negative; or (B) the said Commission shall fail to make a determination within the said three months period.

This amendment would provide additional strength to the law. If the Tariff Commission, for some reason, should fail to act within the statutory time of three months, or if the voting by the Commissioners was evenly divided, a finding of injury would result and the Secretary of the Treasury would then carry out the provisions of the law and assess dumping duties.

PURPOSE

H. R. 6006 would amend the Antidumping Act so as to provide for greater certainty, speed, and efficiency in its enforcement. These improvements were suggested by the Treasury Department in accordance with the directive of Congress contained in section 5 of the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.) which called for a review of the operation and effectiveness of the Antidumping Act by the Secretary of the Treasury. A report under this provision of the law was submitted on February 1, 1957.

The antidumping feature of our Tariff Act is of considerable importance in protecting domestic industries from inroads of foreign goods sold or offered for sale at less than fair value. Not only will the improvements made by this bill assist in speeding up the operating procedure, they will strengthen the deterrent effect of the law and in that respect help to prevent dumping.

The purpose of the amendment made by the Finance Committee is to provide that if the Tariff Commission fails to act within 3 months, or if there is an evenly divided vote within the Commission, then a finding of injury results.

GENERAL STATEMENT

A. PRINCIPAL FEATURES OF H. R. 6006

(1) Assessment of dumping duties

Assessment of dumping duties is provided for in the present law if there are (a) sales at less than fair value of imported merchandise and (b) injury to an industry in the United States resulting therefrom. Due to the wording of section 205 of the present law defining "foreign market value" and to Treasury rulings and court decisions construing this wording, it is possible for situations to arise where sales at less than fair value and injury are found, but where no duties can be

collected. The bill would revise this wording and is thus designed to put an end to this anomalous situation which can presently arise.

(2) *Definitions*

The new definitions of certain terms enacted in the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.) would be incorporated into the Antidumping Act by the bill, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculation of dumping duties. Customs officials would thereby be enabled in large measure to apply a similar set of definitions both in the calculation of ordinary duties and of dumping duties.

(3) *Public notice and reports*

Provision is made in the bill for mandatory public notice when there is reason to believe or suspect sales of imported merchandise at a dumping price, and mandatory public notice by the Treasury Department and the Tariff Commission of their decisions in dumping cases, whether affirmative or negative, with reasons therefor.

B. ANALYSIS

(1) *Assessment of dumping duties*

The Antidumping Act provides that when there has been a determination that imported merchandise of a certain class or kind has been or is being sold at less than fair value and that such sales are or are likely to be injurious to domestic industry, the dumping duties to be collected on particular shipments of such merchandise are to be equal to the amounts by which the prices paid for the goods by American purchasers are less than the foreign market values of the goods (or, in the absence of such value, than the cost of production).

Section 205 of the act provides that the foreign market value of imported merchandise is to be determined by reference to the price—

at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not sold or offered for sale for home consumption, then for exportation to countries other than the United States).

The phrase "sold or freely offered" has been construed by the courts to render prices in "restricted" sales ineligible for use in the determination of foreign market values. Examples of restricted sales are ones in which the buyers agree that the goods are not to be resold or used except as specified in the sales contracts. Such restrictions are fairly common in commercial practice.

The term "fair value" is not defined in the Antidumping Act but is defined in Treasury regulations. Formerly the Treasury construed the term as synonymous with foreign market value or (in cases where foreign market value as defined in the act is not determinable) with the cost of production of the goods. In 1955 the Treasury Department issued amended regulations regarding fair value to provide that the prices in "restricted" sales of such or similar goods in the home market of the exporter or in sales of such or similar goods for export to countries other than the United States could be used in

the determination of fair value. The Treasury Department explains that the prices of such or similar goods in restricted sales frequently provides a better and more easily ascertainable measure of fair value than can be arrived at if such restricted sales are excluded from consideration.

A principal change in the Antidumping Act of 1921 as amended which would be made by H. R. 6006 involves amendment of the definition of "foreign market value" in section 205 of the act so as to permit the use of prices in "restricted" sales in the determination of foreign market value. This amendment would bring the definition of "foreign market value" into conformity with the definition of "fair value" in the Treasury regulations. The amendment would be advantageous to the administration of the act because, with the disparity in the definitions of "foreign market value" and "fair value" that now exists, imported merchandise may be found to be sold below fair value to the injury of domestic industries but no antidumping duties may be chargeable. Such a situation can arise, for example, where the exclusion of a higher home market price as a basis for foreign market value requires reference to third country prices and where such prices are the same as or lower than the prices at which such or similar merchandise is sold to the United States.

Another amendment in the definitions relating to assessment of dumping duties is designed to make appropriate comparisons between the price at which imported merchandise is sold to American purchasers and the price at which such or similar merchandise is sold by the foreign producers or exporters elsewhere despite minor dissimilarities between the merchandise and the differences in the terms or circumstances of the sale.

2. Definitions

As a result of long study in the customs field, it was determined that certain definitions used in connection with value for assessment of ordinary duties should be brought up to date. This was accomplished in the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.). These definitions are now, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculation of dumping duties, incorporated into the bill. These new definitions cover the terms "sold or, in the absence of sales, offered for sale"; "constructed value"; "ordinary course of trade"; "such or similar merchandise"; "usual wholesale quantities".

3. Public notice and reports

Provision is made in the bill for public notice where the Secretary of the Treasury has reason to believe or suspect sales at less than foreign market value. In the past few years, it has generally been the practice to put out a press release in such cases. The bill will make publication mandatory.

Provision is also made for published notice of decisions, whether affirmative or negative, with reasons therefor. The Treasury Department will be required to publish such reports on its determinations with respect to sales at less than fair value and the Tariff Commission will be required to publish such reports on its determinations with respect to injury. In the past there has been no established practice on this point, except that United States Tariff Commission decisions

have been published, sometimes with, sometimes without reasons. Mandatory publication will enable all concerned to know what are the developments in connection with the Antidumping Act, and what types of cases are being found within or without the scope of its application.

SECTION-BY-SECTION EXPLANATION OF THE BILL

SECTION 1

Subsection (b) of section 201 of the Antidumping Act, 1921, in general requires the Secretary of the Treasury to forthwith authorize the withholding of appraisement reports as to imported merchandise of a class or kind as to which he has not made public a finding that it is being, or is likely to be, sold in the United States or elsewhere at less than its fair value whenever he has reason to believe or suspect that the purchase price is less than the foreign market value.

Paragraph (1) of the first section of the bill, as reported, amends section 201 (b) of the Antidumping Act to require the Secretary to publish notice in the Federal Register in addition to authorizing withholding of appraisement reports.

Paragraph (2) of the first section of the bill, as reported, adds a new subsection (c) to section 201 of the Antidumping Act. The new subsection requires the Secretary of the Treasury and the United States Tariff Commission to publish their decisions on dumping cases in the Federal Register, whether positive or negative, with reasons therefor.

SECTION 2

Section 202 of the Antidumping Act explains how the special dumping duty shall be calculated, once a finding has been published pursuant to section 201 (a) that foreign merchandise is sold at less than "fair value," with resultant injury to an industry in the United States. Subsection (a) of section 202 provides that the duty shall be measured by the difference between "foreign market value" and the price in the United States market. The price in the United States market may be either "purchase price" or "exporter's sales price." Subsection (b) (which deals with purchase price) and subsection (c) (which deals with exporter's sales price) provide for certain circumstances justifying adjustments in the figure to be calculated as foreign market value. Section 2 of the bill, as reported, relates to these subsections (b) and (c) of section 202 of the law. It substitutes the words "Secretary or his delegate" for "appraising officers." It uses different wording from that heretofore employed, for sales and offers for sale. It changes the provision regarding quantity discounts, and adds provisions regarding "other circumstances of sale" and "similar" articles of merchandise. These points may be more fully described as follows:

Substitution of the words "Secretary or his delegate" for "appraising officers"

In section 202 (b) and (c) the words "the Secretary or his delegate" are substituted for the words "appraising officers" to conform the wording of the law with the already existing legal status, as the result of 1950 Reorganization Plan No. 26, whereby all functions of all

offices of the Treasury Department, and all functions of all agencies and employees of the Department are placed in the Secretary with authority to delegate. Matters of detail such as here dealt with will be continued to be handled by the subordinates, by delegation.

Substitution of the words "sold or, in the absence of sales, offered for sale" for "sold or freely offered for sale to all purchasers"

Substitution in section 202 (b) and (c) of the words "sold or, in the absence of sales, offered for sale" for the words "sold or freely offered for sale to all purchasers" is one of several steps taken herein to bring this term into conformity with the provision of the Customs Regulations (19 C. F. R. 14.7) adopted April 8, 1955, defining the term "fair value." The substitution also conforms to wording in the Customs Simplification Act of 1956 with one difference made necessary because of the different purposes of the 1956 act and the Antidumping Act. This difference is the omission of the word "freely." The reason for the omission is explained in the second following paragraph.

As indicated above, findings under the Antidumping Act are based on sales at less than "fair value" with resultant injury, but special dumping duties are based on sales at less than "foreign market value." The purpose of conforming the definition of "foreign market value" to that of "fair value" is to put an end to the anomalous situation whereby a finding can be made under the act but no dumping duties can be collected despite continuance of sales at less than fair value.

In connection with the use of the words "sold or, in the absence of sales, offered for sale" the following explanation can be given. Your committee was advised by Treasury Department representatives that on occasion exporters are enabled to sell in the United States market at a lower price than they sold for home consumption without coming within the purview of the Antidumping Act because of inconsequential restrictions placed on their home consumption sales. Thus restricted they were no longer "freely" offered. The amended definition of "fair value" adopted in 1955 closed this gap so as to make possible findings under the act, but the present amendment to the law (which cannot be accomplished by regulation) is needed to make possible assessment of dumping duties in such cases. This applies where the home consumption price is higher than the price to the United States. The reverse situation, where a foreign cartel through its control of the market artificially lowers home consumption price to make possible an equally and unduly low price to the United States market can be handled with reference to the provision of the law and the regulations that no home consumption sale intended to establish a fictitious market shall be taken into account.

Differences due to quantity discounts

The amended provision in regard to quantity discounts is designed to make it clear that such discounts are a factor to be considered from the standpoint of a positive as well as a negative determination of sales at less than foreign market value. The present law provides that allowance may be made for quantity discounts if the quantities shipped to the United States are "greater" than the quantities sold for home consumption. Under the bill, as reported, it is provided that allowance shall be made if "any difference" between the prices being compared is due to the fact that the quantities in the sales to the United States market "are less or are greater than" the quantities sold for

home consumption (sec. 202 (b) (1) and (c) (1)). As presently worded, sales below foreign market value can be excused if the difference is due to quantity discounts, but sales at less than foreign market value cannot be determined if the price to the United States is not less than the home consumption price before allowance for the difference due to quantity discounts, although the price to the United States after allowance due to quantity discounts is in fact less than home consumption price because the quantities sold in the home market are greater than the quantities sold in the United States. The amendment would permit this provision to work both ways.

Differences due to "other circumstances of sale"

Under the bill as reported, provision is made (sec. 202 (b) (2) and (c) (2)) for consideration of "other differences in circumstances of sale" in addition to quantity differentials. This is designed to facilitate efficient and fair comparison between foreign market value and price to the United States market. Examples would be differences in terms of sale, credit terms, and advertising and selling costs.

Differences due to the fact that "similar" articles of merchandise are being compared

The essential element in a price determination under the Antidumping Act is typically a comparison between the price in the United States market, on the one hand, and the price of "such or similar" merchandise for home consumption in the exporting country, on the other hand. Section 202 (b) (3) and (c) (3), as added by the bill, is designed to facilitate equitable comparison and further to bring the definition of foreign market value into conformity with the definition of fair value. Section 5 of the bill, as reported, inserts a new section 212 in the law, entitled "Definitions." Section 212 (3) defines "such or similar merchandise." Subparagraphs (A) and (B) describe merchandise which is identical—i. e., "such" merchandise. Subparagraphs (C), (D), (E), and (F) describe merchandise which can be considered "similar." Section 202 (b) (3) and (c) (3) of the Antidumping Act, as added by section 2 of the bill, as reported, provide that where "similar" merchandise (i. e., merchandise described in sec. 212 (3) (C), (D), (E), or (F)) rather than "such" merchandise (i. e., merchandise described in sec. 212 (3) (A) or (B)) is being compared, allowance may be made for differences between the articles under consideration. If, for example, long-handled shovels are sold to the United States, and only short-handled (otherwise identical) shovels are sold for home consumption in the country of exportation, then it is possible to consider the two types of shovel "similar," and a price determination can be made by comparing the two similar shovels, making allowance for the fact that the long handles cost more than the short handles.

SECTION 3

Section 3 of the bill, as reported, deals with section 205 of the Antidumping Act, defining foreign market value. Changes relate to "sold or * * * offered for sale"; cases in which home consumption price is not an adequate standard for comparison; and sales through sales agencies.

*"Sold or * * * offered for sale"*

The words "sold or, in the absence of sales, offered for sale" are substituted for the words "sold or freely offered for sale to all purchasers" for the same reasons as those given in regard to the like amendment of subsections (b) and (c) of section 202, explained above.

Home consumption sales an inadequate basis for comparison

The provision authorizing the Secretary to base foreign market value on the price for exportation to countries other than the United States when home consumption sales are so small as to form an inadequate basis for comparison is another amendment derived from the Customs Regulations defining fair value (19 C. F. R. 14.7). While the usual standard for comparison with price to the United States market should be home consumption price, there may be instances in which the volume of home consumption sales do not form an adequate basis for comparison. If, for example, a foreign company sells only 1 percent of its product in the home country, 50 percent to third countries, and 49 percent to the United States, it is obvious that a fair comparison for the purpose of determining whether there has been dumping as to price can only be made by comparing the price to the United States with the third-country price. However, existing law ordinarily require the calculation of foreign market value to be made on the basis of the home consumption sales. Under the amendment made by section 3 of the bill, as reported, reference would instead be made to third-country price where this seems necessary for a fair comparison.

Sales through a sales agency

The provision relative to sales through a sales agency is designed to eliminate any possibility that transactions between related persons (as that term is defined in the law with reference to exporter's sales price) must be considered "sold" and used as the basis for foreign market value. This provision is derived from Customs Regulations (19 C. F. R. 14.7 (b) (3)), adopted April 8, 1955, defining fair value.

SECTION 4

Subsection (a) of section 4 of the bill, as reported, amends section 206 of the Antidumping Act to substitute the term "constructed value" for the term "cost of production." This definition of "constructed value" follows the definition of that term as added to the Tariff Act of 1930 by the Customs Simplification Act of 1956, with the following changes: (1) Instead of referring to merchandise "undergoing appraisement" the amendment refers to merchandise "under consideration"; (2) provision is made that the amount for general expenses shall be not less than 10 percent and the amount for profit not less than 8 percent. A comparative type showing the exact differences between the wording of the amendment and the wording in the Customs Simplification Act of 1956 is set forth in appendix A.

Under subsection (b) of section 4 of the bill, as reported, wherever the term "cost of production" appears in the Antidumping Act, the term "constructed value" is substituted.

SECTION 5

Section 5 of the bill, as reported, rennumbers section 212 of the Antidumping Act as section 213, and inserts a new section 212 relating

to definitions. In addition to "constructed value," which is provided for in section 4 of the bill, as reported, the following definitions are incorporated in section 5 of the bill: "sold or, in the absence of sales, offered for sale"; "ordinary course of trade"; "such or similar merchandise"; and "usual wholesale quantities." These definitions are based on the Customs Simplification Act of 1956. Changes are made from the wording of the Customs Simplification Act of 1956 as necessary to show that the definitions here apply to values to be calculated under the Antidumping Act rather than to values calculated for purposes of ordinary duties; thus reference is made to merchandise "under consideration" instead of merchandise "undergoing appraisement." In addition two substantive changes are made.

The term "sold or, in the absence of sales, offered for sale" is used in place of the 1956 Customs Simplification Act's "freely sold or, in the absence of sales, offered for sale" in order that the definition shall be in conformity with the definition in the Customs Regulations regarding fair value (19 C. F. R. 14.7 (a) (1), (2)). (See also the discussion above relative to use of this term in the amendment sec. 202 (b) and (c) made by sec. 2 of the bill, as reported.) Because of the different purpose of the Antidumping Act, the amended definition applies to sales or offers irrespective of restrictions, in contrast to the 1956 Customs Simplification Act's definition which eliminates from consideration only certain types of restrictions. In analyzing sales under the Antidumping Act allowance may be made for differences due to restrictions, constituting circumstances of sale pursuant to the amendments to section 202, subsections (b) and (c).

The definition of "such or similar merchandise" is enlarged beyond the scope of the Customs Simplification Act of 1956, so as to be in conformity with the definition of fair value, in particular 19 Code of Federal Regulations 14.7 (4) (1) (circumstances of sale). This is designed to facilitate speedy and equitable comparison between merchandise sold to the United States and that sold elsewhere. (See also the discussion above relative to the use of this term in the amendment made by sec. 2 of the bill, as reported.)

A comparative type showing the exact differences between the wording of the definitions in the new section 212 and the wording in the Customs Simplification Act of 1956 is set forth in appendix B.

SECTION 6

Section 6 of the bill, as reported, provides that the amendments made by the bill are to apply with respect to all merchandise as to which no appraisement report has been made on or before the date of the enactment of the bill. The amendments are not to apply, however, with respect to any merchandise which—

(1) Was exported from the country of exportation before the date of the enactment of the bill; and

(2) Is subject to a finding under the Antidumping Act which (A) is outstanding on the date of the enactment of the bill, or (B) was revoked on or before the date of the enactment of the bill, but is still applicable to such merchandise.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ANTIDUMPING ACT, 1921

(TITLE II, PUBLIC NO. 10—67TH CONGRESS)

DUMPING INVESTIGATION

SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the said Commission. *For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if (A) the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative; or (B) the said Commission shall fail to make a determination within the said three months period.* The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the Secretary has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the **[cost of production]** *constructed value*), he shall forthwith *publish notice of that fact in the Federal Register and shall* authorize, under such regulations as he may prescribe, the withholding of appraisement reports as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping has been raised by or presented to him or any person to whom authority under this section has been delegated, until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subdivision (a) in regard to such merchandise.

(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative.

SPECIAL DUMPING DUTY

Sec. 202. (a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom

authority under section 201 has been delegated, and as to which no appraisement report has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the **cost of production** *constructed value*) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

[(b) If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section.]

(b) *In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—*

(1) *the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),*

(2) *other differences in circumstances of sale, or*

(3) *the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,*

then due allowance shall be made therefor.

[(c) If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign market value for the purposes of this section.]

(c) *In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his*

delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

PURCHASE PRICE

SEC. 203. That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

EXPORTER'S SALES PRICE.

SEC. 204. That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and

United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

FOREIGN MARKET VALUE

SEC. 205. [That for] *For the purposes of this [title the] title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold [or freely offered for sale to all purchasers] or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.*

[COST OF PRODUCTION

[SEC. 206. That for the purposes of this title the cost of production of imported merchandise shall be the sum of—

[(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

[(2) The usual general expenses (not less than 10 per centum of such cost) in the case of identical or substantially identical merchandise;

[(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

[(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2)) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration.]

CONSTRUCTED VALUE

SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under

the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

(c) *The persons referred to in subsection (b) are:*

(1) *Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;*

(2) *Any officer or director of an organization and such organization;*

(3) *Partners;*

(4) *Employer and employee;*

(5) *Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and*

(6) *Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.*

EXPORTER

SEC. 207. That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

OATHS AND BONDS ON ENTRY

SEC. 208. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given

bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) that he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States, (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

DUTIES OF APPRAISERS

SEC. 209. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of **cost of production** *constructed value* to the contrary notwithstanding) and report to the collector the foreign market value or the **cost of production** *constructed value*, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

APPEALS AND PROTESTS

SEC. 210. That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the **cost of production** *constructed value*, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; and the general appraisers, the Board of General Appraisers, and the Court of Customs Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

DRAWBACKS

SEC. 211. That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

Definitions

SEC. 212. For the purposes of this title—

(1) The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

(3) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(E) Merchandise (i) produced in the same country and by the same person and of the same class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

(4) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

SHORT TITLE

SEC. [212] 213. That this title may be cited as the "Antidumping Act, 1921."



Calendar No. 1649

85TH CONGRESS
2D SESSION

H. R. 6006

[Report No. 1619]

IN THE SENATE OF THE UNITED STATES

AUGUST 30, 1957

Read twice and referred to the Committee on Finance

MAY 21, 1958

Reported by Mr. BYRD, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 201 of the Antidumping Act, 1921 (19 U. S. C.
4 160), is amended as follows:

5 *(1) By inserting after the second sentence of sub-*
6 *section (a) thereof the following sentence: "For the*
7 *purposes of this subsection, the said Commission shall*
8 *be deemed to have made an affirmative determination if*
9 *(A) the Commissioners of the said Commission voting*
10 *are evenly divided as to whether its determination should*

1 *be in the affirmative or in the negative; or (B) the said*
 2 *Commission shall fail to make a determination within*
 3 *the said three months period."*

4 ~~(1)~~ (2) By striking out "he shall forthwith au-
 5 thorize" in subsection (b) and inserting in lieu thereof
 6 "he shall forthwith publish notice of that fact in the
 7 Federal Register and shall authorize".

8 ~~(2)~~ (3) By adding at the end of such section the
 9 following new subsection:

10 “(c) The Secretary, upon determining whether foreign
 11 merchandise is being, or is likely to be, sold in the United
 12 States at less than its fair value, and the United States
 13 Tariff Commission, upon making its determination under
 14 subsection (a) of this section, shall each publish such deter-
 15 mination in the Federal Register, with a statement of the
 16 reasons therefor, whether such determination is in the affirm-
 17 ative or in the negative.”

18 SEC. 2. Subsections (b) and (c) of section 202 of the
 19 Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)),
 20 are amended to read as follows:

21 “(b) In determining the foreign market value for the
 22 purposes of subsection (a), if it is established to the satis-
 23 faction of the Secretary or his delegate that the amount of
 24 any difference between the purchase price and the foreign
 25 market value (or that the fact that the purchase price is

1 the same as the foreign market value) is wholly or partly
2 due to—

3 “(1) the fact that the wholesale quantities, in which
4 such or similar merchandise is sold or, in the absence of
5 sales, offered for sale for exportation to the United States
6 in the ordinary course of trade, are less or are greater
7 than the wholesale quantities in which such or similar
8 merchandise is sold or, in the absence of sales, offered
9 for sale in the principal markets of the country of ex-
10 portation in the ordinary course of trade for home con-
11 sumption (or, if not so sold or offered for sale for home
12 consumption, then for exportation to countries other
13 than the United States),

14 “(2) other differences in circumstances of sale, or

15 “(3) the fact that merchandise described in sub-
16 division (C), (D), (E), or (F) of section 212 (3) is
17 used in determining foreign market value,

18 then due allowance shall be made therefor.

19 “(c) In determining the foreign market value for the
20 purposes of subsection (a), if it is established to the satisfac-
21 tion of the Secretary or his delegate that the amount of any
22 difference between the exporter's sales price and the foreign
23 market value (or that the fact that the exporter's sales price
24 is the same as the foreign market value) is wholly or partly
25 due to—

1 “(1) the fact that the wholesale quantities in
2 which such or similar merchandise is sold or, in the ab-
3 sence of sales, offered for sale in the principal markets
4 of the United States in the ordinary course of trade, are
5 less or are greater than the wholesale quantities in
6 which such or similar merchandise is sold or, in the ab-
7 sence of sales, offered for sale in the principal markets
8 of the country of exportation in the ordinary course of
9 trade for home consumption (or, if not so sold or offered
10 for sale for home consumption, then for exportation to
11 countries other than the United States),

12 “(2) other differences in circumstances of sale, or

13 “(3) the fact that merchandise described in subdi-
14 vision (C), (D), (E), or (F) of section 212 (3) is
15 used in determining foreign market value,

16 then due allowance shall be made therefor.”

17 SEC. 3. The heading and text of section 205 of the
18 Antidumping Act, 1921 (19 U. S. C. 164), are amended to
19 read as follows:

20 “FOREIGN MARKET VALUE

21 “SEC. 205. For the purposes of this title, the foreign
22 market value of imported merchandise shall be the price, at
23 the time of exportation of such merchandise to the United
24 States, at which such or similar merchandise is sold or, in
25 the absence of sales, offered for sale in the principal markets

1 of the country from which exported, in the usual wholesale
2 quantities and in the ordinary course of trade for home con-
3 sumption (or, if not so sold or offered for sale for home con-
4 sumption, or if the Secretary determines that the quantity
5 sold for home consumption is so small in relation to the
6 quantity sold for exportation to countries other than the
7 United States as to form an inadequate basis for comparison,
8 then the price at which so sold or offered for sale for expor-
9 tation to countries other than the United States), plus, when
10 not included in such price, the cost of all containers and
11 coverings and all other costs, charges, and expenses incident
12 to placing the merchandise in condition packed ready for
13 shipment to the United States, except that in the case of
14 merchandise purchased or agreed to be purchased by the
15 person by whom or for whose account the merchandise is
16 imported, prior to the time of exportation, the foreign market
17 value shall be ascertained as of the date of such purchase or
18 agreement to purchase. In the ascertainment of foreign
19 market value for the purposes of this title no pretended sale
20 or offer for sale, and no sale or offer for sale intended to
21 establish a fictitious market, shall be taken into account. If
22 such or similar merchandise is sold or, in the absence of sales,
23 offered for sale through a sales agency or other organization
24 related to the seller in any of the respects described in

1 section 207, the prices at which such or similar merchandise
2 is sold or, in the absence of sales, offered for sale by such sales
3 agency or other organization may be used in determining
4 the foreign market value.”

5 SEC. 4. (a) The heading and text of section 206 of the
6 Antidumping Act, 1921 (19 U. S. C. 165), are amended
7 to read as follows:

8 “CONSTRUCTED VALUE

9 “SEC. 206. (a) For the purposes of this title, the con-
10 structed value of imported merchandise shall be the sum of—

11 “(1) the cost of materials (exclusive of any internal
12 tax applicable in the country of exportation directly to
13 such materials or their disposition, but remitted or
14 refunded upon the exportation of the article in the pro-
15 duction of which such materials are used) and of
16 fabrication or other processing of any kind employed
17 in producing such or similar merchandise, at a time
18 preceding the date of exportation of the merchandise
19 under consideration which would ordinarily permit the
20 production of that particular merchandise in the ordinary
21 course of business;

22 “(2) an amount for general expenses and profit
23 equal to that usually reflected in sales of merchandise
24 of the same general class or kind as the merchandise

1 under consideration which are made by producers in
2 the country of exportation, in the usual wholesale quan-
3 tities and in the ordinary course of trade, except that
4 (A) the amount for general expenses shall not be less
5 than 10 per centum of the cost as defined in paragraph
6 (1), and (B) the amount for profit shall not be less
7 than 8 per centum of the sum of such general expenses
8 and cost; and

9 “(3) the cost of all containers and coverings of
10 whatever nature, and all other expenses incidental to
11 placing the merchandise under consideration in condi-
12 tion, packed ready for shipment to the United States.

13 “(b) For the purposes of this section, a transaction di-
14 rectly or indirectly between persons specified in any one
15 of the paragraphs in subsection (c) of this section may be
16 disregarded if, in the case of any element of value required
17 to be considered, the amount representing that element does
18 not fairly reflect the amount usually reflected in sales in
19 the market under consideration of merchandise of the same
20 general class or kind as the merchandise under consideration.
21 If a transaction is disregarded under the preceding sentence
22 and there are no other transactions available for considera-
23 tion, then the determination of the amount required to be
24 considered shall be based on the best evidence available as

1 to what the amount would have been if the transaction had
2 occurred between persons not specified in any one of the
3 paragraphs in subsection (c).

4 “(c) The persons referred to in subsection (b) are:

5 “(1) Members of a family, including brothers and
6 sisters (whether by the whole or half blood), spouse,
7 ancestors, and lineal descendants;

8 “(2) Any officer or director of an organization
9 and such organization;

10 “(3) Partners;

11 “(4) Employer and employee;

12 “(5) Any person directly or indirectly owning,
13 controlling, or holding with power to vote, 5 per centum
14 or more of the outstanding voting stock or shares of
15 any organization and such organization; and

16 “(6) Two or more persons directly or indirectly
17 controlling, controlled by, or under common control
18 with, any person.”

19 (b) Sections 201 (b), 202 (a), 209, and 210 of the
20 Antidumping Act, 1921 (19 U. S. C., secs. 160 (b),
21 161 (a), 168, and 169), are amended by striking out
22 “cost of production” each place it appears and inserting in
23 lieu thereof “constructed value”.

24 SEC. 5. Section 212 of the Antidumping Act, 1921

1 (19 U. S. C. 171), is renumbered as section 213, and such
2 Act is amended by inserting after section 211 the following:

3 "DEFINITIONS

4 "SEC. 212. For the purposes of this title—

5 " (1) The term 'sold or, in the absence of sales,
6 offered for sale' means sold or, in the absence of sales,
7 offered—

8 " (A) to all purchasers at wholesale, or

9 " (B) in the ordinary course of trade to one or
10 more selected purchasers at wholesale at a price
11 which fairly reflects the market value of the mer-
12 chandise,

13 without regard to restrictions as to the disposition or
14 use of the merchandise by the purchaser except that,
15 where such restrictions are found to affect the market
16 value of the merchandise, adjustment shall be made
17 therefor in calculating the price at which the merchan-
18 dise is sold or offered for sale.

19 " (2) The term 'ordinary course of trade' means
20 the conditions and practices which, for a reasonable
21 time prior to the exportation of the merchandise under
22 consideration, have been normal in the trade under
23 consideration with respect to merchandise of the same
24 class or kind as the merchandise under consideration.

1 “(3) The term ‘such or similar merchandise’ means
2 merchandise in the first of the following categories in
3 respect of which a determination for the purposes of
4 this title can be satisfactorily made:

5 “(A) The merchandise under consideration and
6 other merchandise which is identical in physical
7 characteristics with, and was produced in the same
8 country by the same person as, the merchandise un-
9 der consideration.

10 “(B) Merchandise which is identical in physi-
11 cal characteristics with, and was produced by
12 another person in the same country as, the mer-
13 chandise under consideration.

14 “(C) Merchandise (i) produced in the same
15 country and by the same person as the merchandise
16 under consideration, (ii) like the merchandise under
17 consideration in component material or materials
18 and in the purposes for which used, and (iii) ap-
19 proximately equal in commercial value to the
20 merchandise under consideration.

21 “(D) Merchandise which satisfies all the re-
22 quirements of subdivision (C) except that it was
23 produced by another person.

24 “(E) Merchandise (i) produced in the same
25 country and by the same person and of the same

1 general class or kind as the merchandise under con-
2 sideration, (ii) like the merchandise under consid-
3 eration in the purposes for which used, and (iii)
4 which the Secretary or his delegate determines may
5 reasonably be compared for the purposes of this
6 title with the merchandise under consideration.

7 “(F) Merchandise which satisfies all the re-
8 quirements of subdivision (E) except that it was
9 produced by another person.

10 “(4) The term ‘usual wholesale quantities’, in any
11 case in which the merchandise in respect of which value
12 is being determined is sold in the market under consider-
13 ation at different prices for different quantities, means
14 the quantities in which such merchandise is there sold
15 at the price or prices for one quantity in an aggregate
16 volume which is greater than the aggregate volume sold
17 at the price or prices for any other quantity.”

18 SEC. 6. The amendments made by this Act shall apply
19 with respect to all merchandise as to which no appraisement
20 report has been made on or before the date of the enactment
21 of this Act; except that such amendments shall not apply
22 with respect to any merchandise which—

23 (1) was exported from the country of exportation
24 before the date of the enactment of this Act, and

25 (2) is subject to a finding under the Antidumping

1 Act, 1921, which (A) is outstanding on the date of
 2 enactment of this Act, or (B) was revoked on or before
 3 the date of the enactment of this Act, but is still appli-
 4 cable to such merchandise.

Passed the House of Representatives August 29, 1957.

Attest:

RALPH R. ROBERTS,

Clerk.

Calendar No. 1649

86TH CONGRESS
2d Session

H. R. 6006

[Report No. 1619]

AN ACT

To amend certain provisions of the Antidump-
 ing Act, 1921, to provide for greater cer-
 tainty, speed, and efficiency in the enforce-
 ment thereof, and for other purposes.

AUGUST 30, 1957

Read twice and referred to the Committee on Finance

MAY 21, 1958

Reported with amendments

1. The Board shall have the honor of the Board of
2. members of the Board, the Board of members of the Board
3. the Board of members of the Board of members of the Board
4. the Board of members of the Board of members of the Board

Second Section of Department of Agriculture, United States
 Department of Agriculture, United States
 Department of Agriculture, United States

H. R. 7006

Enacted by 1901

AN ACT

TO PROVIDE FOR THE REGISTRATION OF CERTAIN
 LANDS IN THE STATE OF TEXAS

Section 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 27, 1958
For actions of May 26, 1958
85th-2d, No. 83

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HIGHLIGHTS: House received conference report on agricultural appropriation bill. Senate agreed to conference report on Interior appropriation bill. House committee reported bill to permit transfer of cotton allotments due to excessive rainfall. Senate committee reported bill to fix price support on extra-long staple cotton at 60 to 75 percent of parity. Rep. Thomson, and others, commended administration farm program. Senate committee reported mutual security authorization bill. House debated Alaska statehood bill.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL FOR 1959. Received the conference report on this bill, H. R. 11767 (H. Rept. 1776). (pp. 8482-83, 8530) At the end of this Digest is a summary of the actions of the conferees.
2. COTTON ALLOTMENTS. The Agriculture Committee reported with amendment H. R. 12602, to permit the transfer of 1958 farm acreage allotments for cotton in the case of natural disasters (H. Rept. 1772). p. 8530
3. SURPLUS FOODS. The Agriculture Committee reported with amendment H. R. 12164, to permit the donation of surplus foods to nonprofit summer camps for children (H. Rept. 1774). p. 8530
4. STATEHOOD. Continued debate on H. R. 7999, the Alaska statehood bill. pp. 8484-8521

5. FARM PROGRAM. Rep. Thomson commended administration farm policies, discussed recent improvements in various segments of agriculture, and stated "the situation today again proves that price supports at high levels are not in the best interests of agriculture." Other Representatives joined him in commending present policies. pp. 8524-28
6. ECONOMIC CONDITIONS. Rep. Vursell discussed current economic conditions and stated "we should face up to our responsibility, and stop wage and price inflation before this session of Congress adjourns." pp. 8522-24
7. SMALL BUSINESS. Rep. Patman inserted a letter from Gov. McFarland, Ariz., favoring legislation to establish a small business capital bank system. pp. 8528-28

SENATE

8. APPROPRIATIONS. Agreed to the conference report on H. R. 10746, the Interior appropriation bill for 1959. For information regarding Forest Service items, see Digest 80. This bill will now be sent to the President. pp. 8445-7
9. AGRICULTURE AND FORESTRY Committee reported the following bills:
 - Without amendment, H. R. 11399, to authorize the Secretary to set the level of price support for extra long-staple cotton at between 60 and 75 percent of parity (S. Rept. 1628);
 - With amendments, H. R. 376, to prohibit trading in onion futures on commodity exchanges (S. Rept. 1631);
 - Without amendment, H. R. 7953, to facilitate and simplify the work of the Forest Service (S. Rept. 1629); and
 - Without amendment, H. R. 5497, to authorize Federal assistance for certain fish and wildlife development projects under the Watershed Protection and Flood Prevention Act (S. Rept. 1630). p. 8419
10. FOREIGN AID. The Foreign Relations Committee reported with amendment H. R. 12181, the mutual security authorization bill for 1958 (S. Rept. 1627). pp. 8419-20
 - Sen. Proxmire submitted and discussed three amendments to the foreign aid bill to bar all aid to Yugoslavia, the Dominican Republic, and Saudi Arabia. p. 8424
 - Sen. Morse discussed the mutual security authorization bill, urged it be strengthened, and announced that his proxy vote for Sen. Long did not indicate that Sen. Long favored the bill. pp. 8450-1
 - Sen. Wiley urged passage of the mutual security authorization bill and inserted his radio speech in favor of the bill. pp. 8451-2
 - Sen. Morse obtained unanimous consent to file his minority views and have them printed as part of the Senate report on the mutual security authorization bill. He urged that the bill be amended to contain more loans and fewer grants. pp. 8471-3
 - Received from the President the 13th semiannual report on the operations of the mutual security program (H. Doc. 368). p. 8417
 - Received from the Comptroller General an audit report on the Economic and Technical Assistance Program for Vietnam as conducted by ICA from 1955 to 1957. p. 8418
11. IMPORTS. Passed as reported H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. pp. 8455-6

of the moment and emergency government meetings, the junta, including Maj. Gen. Gabriel Paris, wounded in the kidnaping, attended the brilliant opening concert and joined in the warm reception given to the orchestra.

The ensuing visits to other Colombian cities, followed by plane loads of Colombians attending all concerts in the country, brought further public welcomes. Banners with "Bienvenida Filarmónica" were stretched across the streets. The planes in Cali were met by hundreds of garlanded children dismissed from school for the occasion and by a brass band. Ovations in provincial cities will long be remembered by the Philharmonic. Crowds awaiting Leonard Bernstein in the streets after the concerts were so great that his personal safety was feared for in some instances.

A week earlier the Philharmonic's second concert in Caracas fell on May Day, the traditional time of demonstrations and the day when all business, including hotel service, came to a halt. Yet in the late afternoon more than 7,000 persons filled the acoustic shell in the hills above Caracas. It was the largest crowd ever to gather in the superb open-air theater. Scalpers were buying seats at 300 percent of the cost, and selling them at 400 percent, bullfight fashion, but thousands were still turned away.

The May 12 and 13 concerts in Lima were described on the front pages as "a success without precedent in the musical history of Peru." There were extraordinary ovations at both concerts. At the opening concert attended by the President of the Republic, The Star-Spangled Banner received notable applause.

Theaters have varied from improvised stages in the open air on the shore of oil-derrick-filled Lake Maracaibo to beautiful, highly decorated municipal opera houses, movie theaters, and the modern Aula Magna at the University in Caracas, with an Alexander Calder ceiling. Temperatures and altitudes have varied from steaming heat at sea-level Guayaquil to the rarefied climes of 9,000-foot Bogotá and Quito and 12,500-foot La Paz, where oxygen tanks, often resorted to between numbers, were standard equipment. Contrary to predictions in New York before the trip that wind players could never finish a concert in La Paz, both evenings came off magnificently, with only minor casualties.

Throughout local officials, musicians and press editorials have indicated that this first visit of an orchestra of such stature will have profound repercussions on local music conditions. With aroused public interest in the development of their own orchestras and the probability of increased financial support, local music societies have in several instances benefited greatly from the proceeds of the philharmonic concerts. Radio and television have carried the performances to additional millions.

NATIONAL ANTHEMS

The playing of local national anthems never before heard in performance by a large orchestra has had an electrifying effect in many cities. At the intermission meeting with Mr. Bernstein, the Venezuelan President requested a repetition of the anthem at the end of the concert. The personal popularity with local musicians, students, and the general public of Mr. Bernstein, as conductor, pianist and indefatigable goodwill ambassador addressing audiences and press in Spanish, has been a major factor in the extraordinary success of the tour. This sponsored visit by the Philharmonic, with the excellent cooperation of United States officials in each country, must be reckoned as a highly significant, deep-reaching effort in establishing kinship and respect between the Americas on a cultural, intellectual, and human basis.

SUSPENSION OF DUTIES ON METAL SCRAP

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of Calendar No. 1648, House bill 10015.

There being no objection, the Senate resumed the consideration of the bill (H. R. 10015) to continue until the close of June 30, 1959, the suspension of duties on metal scrap, and for other purposes, which had been reported from the Committee on Finance with an amendment on page 2, after line 4, to insert:

SEC. 3. Section 1 (b) of the act of March 13, 1942 (ch. 180, 56 Stat. 171), as amended, is amended by inserting before the period at the end thereof a comma and the following: "but does not include such nonferrous materials and articles in pig, ingot, or billet form which have passed through a smelting process and which can be commercially used without remanufacture."

Mr. BYRD. Mr. President, the purpose of the bill is to continue for 1 year the suspension of duties on certain metal scrap. For a number of years scrap has been permitted free entry and the continuation of this privilege is for only 1 year—under the bill.

The free entry privilege provided here does not extend to lead or zinc or to copper scrap. The principal forms of scrap are iron and steel, aluminum, magnesium, and nickel.

The Finance Committee adopted an amendment to tighten up the law with respect to nonferrous scrap—mainly aluminum—by providing that primary or virgin nonferrous metal in pig, ingot, or billet form which is commercially usable in the direct manufacture of articles without sweetening or other modification of its constituents would not be included in the duty-free provisions of the bill.

Importers of scrap have not objected to this amendment.

The passage of the bill is important to domestic dealers in scrap as well as to consumers of iron and steel.

The amendment was unanimously agreed to by the committee.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ENFORCEMENT OF ANTIDUMPING ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 1649, House bill 6006.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments, on page 1, after line 4, to insert:

(1) By inserting after the second sentence of subsection (a) thereof the following sentence: "For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if (A) the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative; or (B) the said Commission shall fail to make a determination within the said 3 months' period."

On page 2, at the beginning of line 4, to strike out "(1)" and insert "(2)", and at the beginning of line 8, to strike out "(2)" and insert "(3)."

Mr. BYRD. Mr. President, the purpose of H. R. 6006 is to provide the means for greater speed and efficiency in the enforcement of the antidumping act. This act is aimed at preventing the importation of foreign-made goods at prices which are not considered fair value. It has been the policy to consider fair value to be that price which is charged to purchasers in the country of origin or to third countries other than the United States.

H. R. 6006 came as the recommendations of the Treasury as a result of a directive of Congress included in the Customs Simplification Act of 1956. The Treasury was asked to find methods of simplifying and speeding up operations under the antidumping act. It is believed that this bill will accomplish that purpose.

The Treasury Department is of the strong opinion that the bill will speed up investigations under the act, simplify procedures, and serve to deter attempts to dump foreign goods on the American market in such quantities as to cause or threaten injury to domestic firms and industries. The Department does not claim that this bill answer all the questions or that it will permanently be the last suggestion they may make as to methods of improving the administration of a very important law. It is claimed that this bill is a result of much study and it represents the best suggestions at the present time.

The Finance Committee adopted an amendment which would improve the bill as it came from the House. Under the present law the Treasury Department, if it finds goods coming into the United States at less than fair value, so indicates, and an investigation is then made by the Tariff Commission to determine whether any domestic industry is being injured as a result of such unfair importations. If the Tariff Commission finds injury is threatened or is occurring, then the Secretary of the Treasury is to assess special dumping duties. There are six members on the Tariff Commission and equally divided votes are not uncommon. The committee amendment would provide that if the Tariff Commission did not report within 3 months, or if the members

of the Commission voting were evenly divided on the question of injury, then a finding of injury would result. In other words, if there was sufficient evidence of injury to convince half the number of the commissioners voting, then the finding would be of injury and the Secretary of the Treasury would so recognize it.

The antidumping law is a good law and H. R. 6006 is a good bill because it will improve the operation and administration of the existing law.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

INCREASE IN BANK EARNINGS

Mr. GORE. Mr. President, in today's New York Times there is published an Associated Press article entitled "Banks' Earnings Rose 13 Percent in 1957." The first paragraph of the article reads as follows:

Tight money and higher interest rates helped raise the after-tax profits of commercial banks 13 percent last year to a record level.

I ask unanimous consent that the entire Associated Press article be printed in the RECORD at this point as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BANK'S EARNINGS ROSE 13 PERCENT IN 1957—
TIGHT MONEY AND INCREASES IN INTEREST
RATES CITED—PROFITS AT PEAK

WASHINGTON, May 25.—Tight money and higher interest rates helped raise the after-tax profits of commercial banks 13 percent last year to a record level.

The Federal Deposit Insurance Corporation reported today that insured banks had net profits of \$1,374,000,000, compared with \$1,217,000,000 in 1956.

More loans at higher interest rates helped produce the profit rise. A 25 percent reduction in transfers to reserve accounts and losses on investments also made an important contribution to earnings.

LOAN INCOME UP

Income from loans—the major source of bank earnings—increased 12½ percent to \$4,963,000,000. The average loan carried an interest rate of 5.4 percent, up from 5.1 percent in 1956.

The pinch on credit, now relaxed in the face of the recession, also had its effect on bank expenses. Interest paid by the banks to their depositors rose 4½ percent to \$1,141,000,000. The average deposit drew interest of 2.1 percent, compared with 1.6 percent in 1956.

The 25 percent reduction in charge-offs amounted to \$185 million. Charge-offs totaled \$559 million.

Mr. GORE. Mr. President, I point out that in another issue of the New York Times recently it was reported that the Guaranty Trust Co. of New York showed profits in the first quarter of 1958 14.9 percent higher than in the first quarter of 1957.

I am not one of those who believe that the tight money policy and the higher interest rate structure which have been imposed on the American people throughout our entire national economy are solely responsible for the recession; but they are major contributing factors. It is impossible to impair the resources of every man and woman of America who must buy on credit or pay interest rates on mortgages and debts, without weakening the economic structure. The draining of the substance and the earnings of the people into the financial marts creates imbalances in our economy. We are now seeing some of the tragic results of the imbalances which have been brought about not by accident, not by natural economic forces, but by deliberate administration design to increase interest rates.

PROPOSED EXTENSION OF UNEMPLOYMENT COMPENSATION IN OHIO

Mr. BYRD. Mr. President, I invite the attention of Members of the Senate to the highly commendable course, relative to unemployment insurance, being followed by the Honorable C. William O'Neill, Governor of Ohio, as reported Wednesday, May 21, 1958, in the Wall Street Journal.

From that source, under the heading "Ohio Governor To Ask for 50-Percent Extension of Jobless Pay Period," I quote as follows:

COLUMBUS, OHIO.—Ohio Gov. C. William O'Neill plans to call a special session of the legislature next month to ask an extension of unemployment compensation to 39 weeks, from the present 26 weeks.

In proposing a 50-percent extension in the jobless-pay period, Governor O'Neill said he was opposed to the State borrowing money from the Federal Government, referring to legislation in Congress to provide for Federal loans to States for the same purpose.

The Ohio Governor said he believed the State could afford to dip into its \$543 million unemployment reserve to provide for the extension of the jobless-pay duration period. He estimated the additional cost of such an extension, if it is voted by the State legislature, at close to \$50 million.

Governor O'Neill noted unemployment in Ohio now totals 220,000 and that as of May 1 about 25,000 jobless workers had exhausted

their benefits. The total is expected to climb sharply in succeeding months, he said.

The Federal legislation referred to by Governor O'Neill is H. R. 12065, reported by the Senate Finance Committee last week, which will be before the Senate tomorrow.

The \$543 million Ohio reserve he mentioned is a part of the nearly \$8 billion which is in the unemployment-insurance trust-fund balance.

In addition to the funds in the trust-fund balances, and in addition to any further funds which may be made available under the bill which is to come before the Senate tomorrow, there is already a \$200 million Federal loan fund from which the States may borrow if and when their reserves in the trust fund reach levels which are too low.

Every State in the Union has funds on deposit in this trust fund for which the Federal Treasury acts as the bank. State balances in this fund, as of March 31, ranged from something over \$8 million for North Dakota to more than a billion and a quarter dollars for New York.

The fund represents the accumulations of payroll taxes in the nature of unemployment-insurance premiums paid in by employers in the various States. The Federal and State Governments, to date, have never participated in the fund.

I think the governors of other States where unemployment is abnormally high would do well to follow the sound example to be found in the action announced by Governor O'Neill. Where it is necessary, they may call upon their respective legislatures to consider good and proper use of unemployment-insurance reserves already on hand, before they start calling on the Federal Government to increase the national deficit and debt, ultimately to be paid by all the taxpayers.

If they would do this, I firmly believe most States would find that their unemployment-insurance payment problems, on the basis of present estimates, could be met from their own existing funds without requirement for Federal assistance.

I ask unanimous consent to have printed in the RECORD as a part of my remarks a statement prepared by the United States Treasury Department showing the status of each State's balance in the unemployment-insurance trust fund for the months of January, February, and March, 1958.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 2, 1958
For actions of July 1, 1958
85th-2d, No. 109

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HIGHLIGHTS: House debated mutual security appropriation bill. House committee reported area redevelopment bill. Senate passed bill to make Small Business Administration permanent agency.

HOUSE

1. APPROPRIATIONS. Began debate on H. R. 13192, the mutual security appropriation bill for 1959. (pp. 11630-664, 11674-675) As reported by the Appropriations Committee, the bill includes \$300,000,000 for advances to the development loan fund, \$171,500,000 for technical cooperation programs, and \$2,100,000 for the payment of ocean freight charges to move supplies donated to and by American voluntary agencies.
2. AREA REDEVELOPMENT. The Banking and Currency Committee reported with amendment S. 3683, to establish an effective program to alleviate conditions of substantial and persistent unemployment and underemployment in certain economically depressed areas (H. Rept. 2099). p. 11678
3. MILITARY CONSTRUCTION. The Rules Committee reported a resolution for consideration of H. R. 13015, to authorize construction at military installations, including authorization for financing from the foreign currencies acquired under Public Law 480 or through other commodity transactions of CCC. p. 11678, 11665

House July 1, 1958

4. FLOOD CONTROL. The Public Works Committee ordered reported H. R. 9924, to authorize a compact between Conn. and Mass relating to flood control. p. D622, 11666
5. IMPORTS. Conferees were appointed on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. Senate conferees have not yet been appointed. p. 11665
6. FOREIGN TRADE; SURPLUS COMMODITIES. Rep. Reuss expressed concern over the effects of Public Law 480 transactions on certain friendly foreign countries, and urged the Agriculture Committee to include a provision in legislation extending the program to require "reasonable precautions to avoid displacing usual marketings of foreign countries." pp. 11675-676
7. STATEHOOD. Delegate Burns, Hawaii, commended the admission of Alaska as a State, and urged passage of similar legislation for the admission of Hawaii. p. 11667
8. SURPLUS COMMODITIES. Received from this Department the first monthly report of the General Sales Manager concerning the policies, activities, and developments, including all sales and disposals, with regard to each commodity which CCC owns or is directed to support; to Agriculture Committees. pp. 11554, 11677
9. FOREIGN AID. Received from the Deputy Manager of the Development Loan Fund, letters relative to the establishment of loans for Paraguay, Pakistan, and Thailand under provisions of the Mutual Security Act of 1954. p. 11677
10. DATA PROCESSING. Both Houses received from GAO a report on a survey made by that agency of the progress and trend of development and use of automatic (electronic) data processing in the business and management control systems of the Government. pp. 11554, 11677
11. FOREIGN TRADE. Both Houses received from the Tariff Commission a report on the operation of the trade agreements program. pp. 11554, 11677

SENATE

12. FORESTRY. Sen. Murray commended the Forest Service, commented on a progress report concerning the Northern Region, and inserted an editorial, "Access Roads Needed For Best Forest Use." pp. 11561-2
13. SMALL BUSINESS. Passed with amendments H. R. 7963, to make the Small Business Administration a permanent agency and increase the SBA loan authority (pp. 11558, 11589, 11595-601, 11606-15).
Adopted the following amendments in addition to the committee amendments:
By Sen. Javits, to authorize assistance by SBA in joint research and development programs (pp. 11597-11601);
By Sen. Thyne, 55 to 26, to make the SBA a permanent agency (pp. 11606-10);
By Sen. Morse, to make the act applicable to sales of property by the Government, which Sen. Murray had stated earlier was the result of complaints about timber sales (p. 11558) (pp. 11610-11); and
By Sen. Capehart, to retain the Loan Policy Board of the Administrator and the Secretaries of the Treasury and Commerce (pp. 11611-12)
Rejected an amendment by Sen. Bush to retain the present loan limit of \$250,000 in place of the \$350,000 suggested by the Committee (pp. 11612-13).

ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

TRANSFER OF NAVAL VESSELS TO FRIENDLY FOREIGN NATIONS

Mr. BOLLING (on behalf of Mr. MADDEN), from the Committee on Rules, reported the following privileged resolution (H. Res. 616, Rept. No. 2103), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 3506) to authorize the transfer of naval vessels to friendly foreign countries. After general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

AUTHORIZING CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. BOLLING (on behalf of Mr. MADDEN), from the Committee on Rules, reported the following privileged resolution (H. Res. 617, Rept. No. 2104), which was referred to the House Calendar and ordered to be printed:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 13015) to authorize certain construction at military installations, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

AMENDING CERTAIN PROVISIONS OF ANTIDUMPING ACT OF 1921

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, with Senate amendments thereto, disagree to the amendments of the Senate, and request a conference with the

Senate on the disagreeing votes of the two Houses.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. MILLS, GARY, HARRIS, REED, and SIMPSON of Pennsylvania.

PERMISSION TO SIT DURING SESSION OF HOUSE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislative Oversight of the Interstate and Foreign Commerce Committee may be permitted to sit during general debate tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CONSTRUCTION AND SALE OF PASSENGER SHIPS

Mr. BONNER submitted the following conference report and statement on the bill, H. R. 11451, to authorize the construction and sale by the Federal Maritime Board of a superliner passenger vessel equivalent to the steamship *United States*, and a superliner passenger vessel for operation in the Pacific Ocean, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 2100)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11451) to authorize the construction and sale by the Federal Maritime Board of a superliner passenger vessel equivalent to the steamship *United States*, and a superliner passenger vessel for operation in the Pacific Ocean, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

HERBERT C. BONNER,
FRANK W. BOYKIN,
EDWARD A. GARMATZ,
THOR C. TOLLEFSON,
JOHN J. ALLEN, Jr.,

Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
JOHN M. BUTLER,
NORRIS COTTON.

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11451) to authorize the construction and sale by the Federal Maritime Board of a superliner passenger vessel equivalent to the steamship *United States*, and a superliner passenger vessel for operation in the Pacific Ocean, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

In the past several years the United States has been suffering from a serious deficiency in its mobilization base due to the lack of large, safe, modern passenger vessels for immediate conversion to troopships in time of emergency. There is also a great and growing demand for an increase in the passenger-

carrying segment of the American merchant marine. H. R. 11451 is a bill to help meet these deficiencies in shipping services presently inadequately served by American-flag ships.

The Atlantic superliner will replace the aging *S. S. America* and provide additional capacity for the North Atlantic with a sister ship to the *S. S. United States*, and the Pacific ship will augment the trans-Pacific service rendered by the *S. S.'s President Wilson* and *Cleveland* in a trade which is rapidly growing. The bill was found necessary because the Merchant Marine Act of 1936 is not entirely adequate to assure the construction of vessels in the superliner category, involving highly complex questions of construction subsidy determination, differentiation between commercial and defense features, American versus foreign construction and safety standards, determination of special governmental assistance received by competing foreign passenger ships and other matters of opinion subject to a wide variation of viewpoints. Failure of the former Maritime Commission to recognize the inadequacy of existing law resulted in lengthy controversy over the contracts for the construction of the *S. S. United States* and two other superliners after World War II.

The 1936 act anticipated the probable need for superliners, but did not attempt to prescribe the precise legislative provisions necessary to assure their construction. Accordingly, after full study and lengthy hearings, it was found that in order to make it possible for an American operator to secure an economic return in accordance with the parity principle of the act, it was necessary that the imponderables and ambiguities encountered when the steamships *United States*, *Constitution*, and *Independence* were constructed be resolved through special legislation. This bill, by establishing special pricing provisions based upon the special characteristics of each of the ships authorized, clarifies those matters that were the source of the previous controversy, and at the same time fully protects the interest of the Government.

The paramount justification for superliners of the category covered by this bill is the national security. The testimony in both Houses was emphatic on this point. The special speed capability and the high standards of wartime safety and stability which have been built into the *S. S. United States*, including such features as watertight subdivision, aluminum deckhouse structure, lightweight piping, and the highest degree of fire resistance are well known and were important in the consideration of this bill. On the basis of fully qualified military testimony, it is understood that these features improve both the safety and speed of the vessel if put to use as a wartime troopship. Accordingly, it is the intent of this bill that the national defense features of each of the new superliners will incorporate the same high standards of design and construction as those of the *S. S. United States*, and that the speed built into the vessels will be as high above the commercial operating speeds established in the hearings as is practicable, considering the hull designs and types of vessels authorized. The importance of high defense construction standards must be emphasized.

As amended by the Senate, the bill would add a new section as follows:

"No common carrier by water subject to the Shipping Act of 1916, as amended; the Merchant Marine Act of 1936, as amended; or any other act; shall directly or indirectly issue any ticket or pass for the free or reduced-rate transportation to any official or employee of the United States Government (military or civilian) or to any member of their families, traveling as a passenger on any ship sailing under the American flag in

foreign commerce or in commerce between the United States and its Territories and possessions; except that this restriction shall not apply to persons injured in accidents at sea and physicians and nurses attending such persons and persons rescued at sea. Nothing contained in this section shall prohibit any common carrier by water, under such terms and conditions as the Board may prescribe, from interchanging with any other common carrier by water free tickets, free passes, or free or reduced-rate transportation for their directors, officers, and employees and their immediate families, unless such individuals are also employees of the United States Government."

The conference managers on the part of the House disagreed with the Senate amendment for the following reasons:

1. There is no appropriate place for the amendment in the bill. The purpose of the bill is to authorize the construction and specify the method of financing the construction of two superliners for the Atlantic and Pacific Oceans in accordance with the Merchant Marine Act of 1936, subject to the necessary modifications provided for by the bill. The amendment has nothing to do with the purpose of the bill and would apply to all common carriers by water subject to the Shipping Act of 1916, the Merchant Marine Act of 1936, or any other act. In the opinion of the managers on the part of the House the amendment is not germane.

2. There is already statutory prohibition against passenger carriage below tariff rates with respect to the coastwise and intercoastal commerce of the United States. The amendment, covering a smaller part of this same field, would certainly confuse and might weaken the broader statute.

3. The amendment has implications far beyond those apparent on its face. For example, the Military Sea Transportation Service presently enters into contract arrangements with private American-flag carriers for transportation of civilian and military personnel of the Department of Defense and their dependents. The proposed amendment would upset these arrangements, which have been found to be very satisfactory from the Government's standpoint. It is estimated that if the amendment becomes law it will cost the Defense Department alone as much as \$1,250,000 to \$1,500,000 additional per year to move military and civilian personnel and their dependents overseas on existing carriers.

Postal employees must travel on some ships in connection with the movement of the mails. Existing law authorizes Post Office officials to travel free on American ships when on official business.

Similarly, departmental personnel such as Maritime and Coast Guard employees would, on occasion, have to travel on American ships in connection with their functions relative to the particular ships. There are undoubtedly many other legitimate occasions for free or reduced rate travel while on official business. A proposal such as that contained in the amendment should not proscribe these wholly legitimate activities.

4. The amendment can only be made applicable to American water carriers who for the most part are in competition with foreign steamship lines in international trade. These foreign lines (many of which are nationally owned or controlled) would not be affected by the amendment.

Matters concerning passenger rates, fares, and tariffs are controlled by the member companies of the international steamship passenger conferences. It is understood that the conference agreements contain provisions regulating these matters on a uniform basis to avoid unfair or discriminatory practices. The Committee on Merchant Marine and Fisheries has announced early commencement of a comprehensive study of the steamship conference system

and intends to include consideration of the questions involved in the amendment.

5. There is no evidence of existing abuses.

6. The amendment would be administratively difficult to handle, and is not clear as to its meaning in all respects.

7. No hearings have been held in either House on the subject matter of the amendment.

8. A bill, S. 306, is presently pending before the Senate Interstate and Foreign Commerce Committee which is intended to cover the objectives of the amendment. If the objectives of the amendment are desirable, they should be appropriately considered in connection with the pending bill.

9. Only through appropriate hearings can the ramifications of the amendment be fully disclosed and effective legislation written if such is found to be necessary.

For the foregoing reasons the conference managers on the part of the House felt compelled to disagree to the Senate amendment, and the Senate receded therefrom. It is hoped, however, that the subject matter of the amendment, in the form of S. 306 or otherwise, will be given full hearings to determine the need for corrective legislation.

In view of the foregoing agreement of the conferees the proposed conference substitute is identical with the House bill.

HERBERT C. BONNER,
FRANK W. BOYKIN,
EDWARD A. GARMATZ,
THOR C. TOLLEFSON,
JOHN J. ALLEN, Jr.,

Managers on the Part of the House.

CENTENNIAL ANNIVERSARY OF THE LINCOLN-DOUGLAS DEBATE

The SPEAKER. The Chair recognizes the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN of Illinois. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution, House Joint Resolution 346, commemorating the centennial anniversary of the Lincoln-Douglas debate which was held in Freeport, Ill., on August 27, 1858.

The Clerk read the resolution, as follows:

Whereas the debate between Abraham Lincoln and Stephen A. Douglas at Freeport, Ill., in the Illinois senatorial contest of 1858 was one of the great and important events in the history of the United States; and

Whereas the centennial anniversary of the Lincoln-Douglas debate is to be appropriately commemorated at Freeport in August of 1958; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States joins the city of Freeport in commemorating the centennial anniversary of the Lincoln-Douglas debate which was held in Freeport, Ill., on August 27, 1858.

SEC. 2. A copy of this resolution, suitably engrossed and duly authenticated, shall be transmitted to the Governor of Illinois, and the president of the Lincoln-Douglas Society, Freeport, Ill.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELEVEN O'CLOCK HOUR OF MEETING JULY 2

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

Mr. GROSS. Mr. Speaker, reserving the right to object, may I ask the gentleman what the business of the House will be on tomorrow?

Mr. McCORMACK. Yes.

Mr. GROSS. Other than the pending bill.

Mr. McCORMACK. Yes. There is a rollcall vote on the Mallory decision bill, then there is a conference report on the Yellowtail Dam.

Mr. GROSS. Can the gentleman give us any assurance there will not be on tomorrow a filibuster such as took place this afternoon?

Mr. McCORMACK. I do not feel I am qualified to personally answer the question.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FLOOD CONTROL—THAMES RIVER BASIN COMPACT BILL

(Mr. PHILBIN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PHILBIN. Mr. Speaker, I want to take this opportunity to express my thanks to the distinguished gentleman from Tennessee [Mr. DAVIS], to the distinguished gentleman from New York [Mr. BUCKLEY], and all the members of the House Committee on Public Works for their expeditious action in reporting H. R. 9924, the Thames Basin compact bill. I especially appreciate also the very effective interest and efforts of the distinguished majority leader, Mr. McCORMACK.

This measure, when it is adopted by House, and I trust and expect that will be in the very near future, will be another step forward in the overall flood-control program for Massachusetts and Connecticut.

As the Members of the House are well-aware, our House committees and membership have given solid support for the flood-control program for the New England area, as well as other areas of the Nation. Insofar as these efforts have been concerned, this has been particularly true, to my own knowledge, in the New England area. The sustained and successful efforts for this vital program have been conducted on a wholehearted bipartisan basis. There has been no suggestion of any political flavor associated with the flood-control program and Members on both sides of the aisle have worked together harmoniously, and I am happy to state, successfully and effectively to advance this program.

The current bill, H. R. 9924, is a companion bill to one introduced by my esteemed friend, the distinguished gentleman from Connecticut, Mr. SEELY-BROWN, whose district in Connecticut is contiguous to my Massachusetts district. From the beginning of the emergency confronting our respective districts, Mr. SEELY-BROWN has been in continuous association with the activities of those working in behalf of the program and has invariably rendered

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

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Personnel.....	4,27,31		
Procedure.....	29		
Public Law 480.....	25		
Public works.....	32		
Reclamation.....	16		
Research.....	28		
Small business.....	8		
Statehood.....	15,21,30		
Surplus commodities.....	23		
Surplus properties.....	7		
Wildlife.....	30		

HIGHLIGHTS: House passed bill to establish townsites from forest lands.

HOUSE

- FORESTRY. Passed without amendment H. R. 12161, to provide for the establishment of townsites from national forest lands. p. 11863
Passed without amendment H. R. 6038, to authorize transfers of land between the Sequoia National Forest and the Kings Canyon National Park, Calif. p. 11861
- PEANUTS. Passed as reported H. R. 12224, to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment. p. 11851
- CHEMICAL ADDITIVES. The Interstate and Foreign Commerce Committee reported without amendment H. R. 9521, to amend the Federal Food, Drug, and Cosmetic Act so as to revise the definition of the term "chemical additive" to provide that it shall not include any pesticide chemicals when used in or on any raw agricultural commodity which is produced from the soil (H. Rept. 2119). p. 11890
- PERSONNEL. Passed without amendment S. 1901, to grant overtime pay for irregular and unscheduled hours of work beyond regular tours of duty (for fire fighters etc.). This bill will now be sent to the President. p. 11850

5. BUILDINGS. Passed without amendment S. 2108, to authorize GSA to name, re-name, or otherwise designate any building under its custody. This bill will now be sent to the President. pp. 11850-51
6. MINERAL LEASES. Passed as reported S. 2069, to amend the Mineral Leasing Act so as to increase the aggregate acreage of coal leases which may be held by one person in any one State. pp. 11851-52
7. SURPLUS PROPERTY. Passed as reported S. 2752, to modify the procedures for submitting proposed surplus property disposals to the Attorney General. p. 11852
8. SMALL BUSINESS. Rep. Patman urged the enactment of legislation for the aid of small businesses. pp. 11888-89
9. FOREIGN AID. Received from the Deputy Managing Director, Development Loan Fund, a letter relative to the establishment of a loan of not to exceed \$40 million to the Plan Organization of Iran. p. 11890

SENATE

10. BUDGETING. Sen. Proxmire submitted, as an amendment to H. R. 8002 (the accrued-expenditures budgeting bill), the language of S. 434 (the Senate bill on the same subject) and inserted telegrams from members of the Hoover Commission on Reorganization urging the passage of the bill. p. 11822
11. MINERALS. Passed with amendments S. 3817, to authorize loans for development of mineral resources in the U. S. pp. 11838-43
Sen. Carroll was added as cosponsor to S. 4036, to provide price stabilization payments to mineral producers. p. 11823
12. CIVIL DEFENSE; DEFENSE PRODUCTION. S. Res. 297, to disapprove Reorganization Plan No. 1 of 1958 (to combine ODM and FCDA) was indefinitely postponed. p. 11823
13. IMPORTS. Senate conferees were appointed on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act, House conferees have been appointed. p. 11831
14. MONOPOLIES. The Judiciary Committee reported with amendment S. 721, to expedite the enforcement of Clayton Act cease and desist orders (S. Rept. 1808). p. 11821
15. STATEHOOD. Sen. Proxmire inserted a TV interview of Sen. Church in which he discussed Alaskan statehood. pp. 11828-31
16. RECLAMATION. Received from the Interior Department reports on the proposed Molokai project, Hawaii, and the Norman project, Okla. p. 11820
17. LANDS. Received from the Interior Department a proposed bill to direct the Secretary of the Interior to administer certain acquired lands as revested Ore. and Calif. railroad grant lands; to the Interior and Insular Affairs Committee. p. 11820
18. FARM PROGRAM. Received from the La. Legislature a resolution commending Sen. Ellender for his services on behalf of international relations, world peace, flood-control work, and agriculture. p. 11820

Senator CHURCH. I think that in 1960 the Democrats are going to return to the White House.

Mr. TULLY. Does that mean the answer is "Yes"?

Senator CHURCH. That means the answer is "Yes."

Mr. PIERPOINT. Senator, as a member of the Rackets Committee that currently is investigating the Mafia and gangsterdom here in America, where are those investigations going from here?

Senator CHURCH. Mr. Pierpont, from here they go to Chicago, in the sense that our inquiry during the next 2 weeks will take the restaurant and hotel industry in Chicago, and we will attempt to demonstrate how the mobster element has come to influence and in some respects to dominate portions of this industry in Chicago. We will examine the case of the Chicago Restaurant Association. We will show how this association, just as an example, was represented by Mr. Tietelbaum from 1933 to 1954.

Mr. NOVINS. Could we have the first name on him, sir?

Senator CHURCH. Abraham Teitelbaum, at \$125,000 a year retainer fee. He, of course, was Al Capone's personal attorney.

We will show how the mobster element has come into the restaurant business and also has taken control of certain unions, thus preventing legitimate unions from organizing the waiters and the chefs and protecting the management of these industries. And we will show how honest, legitimate business has been driven out by violence, intimidation, and coercion in Chicago.

Mr. PIERPOINT. You mentioned Capone. Do you mean, then, that the Mafia may be tied in with the current activities—

Senator CHURCH. I think certain elements of the Mafia or of the Black Hand, it's been called by different names, but it is an evidenced syndicate of crime that reaches into many of our major cities. Chicago is one aspect of that operation, and I think that the hearings of the committee will be most instructive and enlightening, and I hope helpful in clearing up the problem there.

Mr. NOVINS. Senator, I am interested in that fee that you mentioned being given to the Chicago attorney representing the association. Does the committee feel that that is illegal?

Senator CHURCH. No; not at all. But it is indicative of the importance placed on his services and the fact that he was once Al Capone's attorney is also indicative of the link-up that exists between the Restaurant Association and certain of the mobster elements in Chicago.

Mr. NOVINS. Senator, one quick question in the little time we have left.

Senator NEUBERGER, on the floor, in the middle of the Alaskan debate, suggested that he hoped you would one day run for President or Vice President.

Do you have any such present intention?

Senator CHURCH. No. No; my job keeps me very, very busy, and though I thank you for giving me the chance to say "no thank you," I must say "no thank you."

Mr. NOVINS. All right.

Well, now, let me thank you, then, for your appearance here today, Senator. Thanks very much, indeed, for coming here—

Senator CHURCH. Thank you, Mr. Novins. It's been a pleasure.

Mr. NOVINS. And thanks also to today's panel of newsmen. To Andrew Tully, of Scripps-Howard Newspaper Alliance; Robert Pierpoint, of CBS News; and William H. Lawrence, of the New York Times.

This is Stuart Novins.

BASEBALL, THE AMERICAN PASTIME

Mr. MUNDT. Mr. President, I cannot resist taking the floor temporarily to express the hope that baseball in America will not become strictly and purely a commercial enterprise, engaged in for the profit of whoever happen to be the stockholders of baseball clubs.

It seems to me it comes at an exceedingly poor time, when Congress is about to consider legislation, on the Senate side, defining baseball as a sport, to read in the newspapers that those who own the baseball franchise in the city of Washington are considering the possibility of taking the franchise for a major league team out of the National Capital.

It would seem to me baseball means to America something more than dollars in the cash registers of those who happen to own the clubs. Perhaps Congress should take another look at the measure now at the desk, of which I am cosponsor, I may add, and which is designed to make sure, if we are to define baseball as a sport, that we enact the kind of legislation to which I think the sport is entitled, so that the general public and the Nation itself will be given consideration beyond that of the dollar sign. Having baseball as our national sport without a franchise in the National Capital would be a good deal like having a football season without a team at Notre Dame. It would be like having boxing in America without Sugar Ray Robinson.

I shall perhaps discuss this subject in legislative terms at a later time. Today I desire merely to voice the hope that those who own the baseball franchise in Washington—both those who own a majority of the stock and those who own a very substantial minority of the stock—may take another look at their obligation to America and to their National Capital, consider that aspect more sincerely, and look less greedy at the reports from the cash registers and the bank account.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). Without objection, it is so ordered.

AMENDMENT OF CERTAIN PROVISIONS OF ANTIDUMPING ACT, 1921

The PRESIDING OFFICER (Mr. PROXMIER in the chair) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the en-

forcement thereof, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JOHNSON of Texas. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

I may say, in explanation of that motion, that I am informed that such is the desire of the chairman of the committee and the ranking minority member. I have discussed the subject also with the acting minority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD, Mr. KERR, Mr. ANDERSON, Mr. MARTIN of Pennsylvania and Mr. WILLIAMS conferees on the part of the Senate.

VISAS UNDER IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Mr. DIRKSEN. Mr. President, since the special immigration law—Public Law 85-316—became effective on September 11 last year, 32,253 visas under that program have already been issued. This act amended the Immigration and Nationality Act of 1952, and was designed as a humanitarian measure to reunite families, provide for the admission to the United States of certain refugees, and to permit adoptions by American citizens of orphans overseas. As such, first emphasis was given to reuniting families, evidenced by the fact that 71 percent of visas issued to date have been for this purpose. In addition, more than 1,000 visas have been issued to orphans.

It was apparent from the beginning of the administration of the act that issuance of visas to refugees would require more time because of the security requirements involved and to secure an equitable distribution on a worldwide basis of the limited numbers of visas available for refugees. Furthermore, the personnel required for the security investigations could not be assigned to the field until funds for this purpose were made available by Congress in April 1958. Nonetheless, more than 2,500 refugees have secured preliminary approval as of June 20, 1958, for entry, 300 more than the originally estimated workload for the period up to the end of June. The additional personnel now in the field, coupled with the acceleration of the review of cases in Washington, will place the program on a current basis this month.

Program goals for the administration of the act have been exceeded to date.

I ask unanimous consent to have printed in the Record at this point as a part of my remarks a progress report with respect to the various provisions of the act.

There being no objection, the report was ordered to be printed in the Record, as follows:

PUBLIC LAW 85-316, PROGRESS REPORT

INTRODUCTION

On September 11, 1957, the President signed Public 85-316 to amend the Immigration and Nationality Act of 1952, thereby providing approximately 80,000 additional visas in the following categories:

1. Sec. 10: Cancellation of mortgages on quotas.....	15,600
2. Sec. 12: Provision of nonquota status for applicants in the 1st 3 preference categories (reunion of families).....	38,100
3. Sec. 15: Refugee-escapees, German expellees and Dutch ethnics.....	18,656
4. Other sections (orphans, TB cases, etc.).....	7,644
Total.....	80,000

Of the 80,000 total visas, it was estimated that 29,000 could be issued by June 30, 1958. Much effort during the first 9 months under Public Law 85-316 necessarily was devoted to planning and assigning personnel; as of May 31, 1958, 32,253 visas were issued, exceeding the June 30, 1958, target issuance.

Section 10. Cancellation of mortgages on quotas

It is anticipated that this section will make available 15,600 quotas visas which could not be issued due to deductions from regular quotas required by the Displaced Persons Act and other legislation. The restoration of these quota numbers will mean visas for many refugee-escapees who probably would have applied otherwise under section 15 of the act. As of May 31, 1958, over 7,000 or 45 percent of the 15,600 potential visas under this section were issued, constituting 22 percent of the 32,253 total issued as of that date.

Section 12. Preference cases

Since the largest number of aliens benefitting under this act already had applied for entry and are relatives of American citizens or legally admitted aliens, initial emphasis was placed on rapid issuance of visas under this section. This preference consideration is in accord with our immigration laws. In addition, thousands of nonpreference applicants were processed as a result of the removal of the backlog of first, second, and third preference cases. Of the 32,253 visas issued as of May 31, 1958, 23,000 or 71 percent were issued under section 12, constituting over 60 percent of the 38,100 potential visas under this section.

Section 15. Refugee-escapees

This section provides special nonquota visas for 18,656 refugee-escapees, expellees, and relatives as follows:

Category	Subsection	Potential visas
German expellees.....	15 (a) (1).....	2,500
Netherlands refugees and relatives.....	15 (a) (2).....	1,600
Refugee-escapees.....	15 (a) (3).....	14,556
Total.....		18,656

It was apparent from the beginning that issuance of visas to this category would be more difficult due to the very nature of obtaining security clearances and of making a fair and equitable determination of eligibility as outlined in the recommendations of the Senate committee report. A total of 2,200 visas was estimated for the first year, and although this goal will not quite be met, great progress has been made in getting approvals to the field. It should be noted that the supplemental appropriation was not passed until March 1958 so that security personnel could not be assigned until after that date. There are now a larger number of personnel in the field and the processing of visas un-

der this section should proceed more rapidly. It is still anticipated that all visas under this and other sections will be issued by the end of 1959, the original date set for completion of this program.

In view of the limited number of visas available for refugee-escapees in relation to the total potential applicants, Congress in passing this act indicated that visas should be issued to refugee-escapees on the basis of persecution and hardship suffered, and potential contribution to the welfare of the United States. This requirement involves the appraisal of each applicant under selective, relative criteria. Obviously, it would be impossible for such comparative judgments to be made by individual consuls all over the world. For this reason it was decided that all refugee-escapee applications should be submitted to Washington for review by an interagency committee consisting of representatives of the Departments of State, Labor, and Health, Education, and Welfare, and the Immigration and Naturalization Service. This Interdepartmental Committee was very helpful in the initial review of cases and the development of more refined criteria for the determination of whether an applicant could be considered a refugee-escapee. Once general standards were developed, this committee ceased reviewing individual cases and this function was turned over to panels of State Department reviewers. In general, cases are reviewed on the basis of: (a) degree of professional, technical, or other skill; (b) extent of persecution and hardship; (c) sponsorship in the United States; (d) ability to speak English; (e) unification of close relatives.

When an applicant is approved as a refugee-escapee, the case is returned to the appropriate consulate, where a visa is issued only after regular requirements of the Immigration and Nationality Act of 1952 have been satisfied, including medical checks and special security screening prescribed for refugee-escapees recently arrived from within the Sino-Soviet orbit. Since bona fides in such cases are difficult to establish, detailed questionnaires and interviews with the applicants and three references are necessary. Delay has been caused by restrictions upon investigative activities United States personnel can conduct in countries of asylum. Congress made available in April 1958 supplemental funds for additional security personnel for section 15 screening. Fifty-four additional employees (9 American screening officers, 45 locals) are now on the job. The assignment of 6 more American screening officers should be completed shortly after July 1, 1958, completing the screening staff provided by the supplemental budget. Two review panels are now processing approximately 300 cases per week, and special panels work overtime to reduce any backlog as it develops. The net effect of these efforts is shown in the following table covering the status of section 15 (a) (3) cases received in Washington as of June 20, 1958:

Status:	Cases
Approved (2,503 persons).....	1,277
Rejected.....	735
Deferred.....	98
Abandoned.....	90
Partially reviewed or being processed.....	1,321
Awaiting review.....	1,871
Total received (11,974 persons).....	5,322

Despite the availability of additional staff and the progress being made in preliminary Washington screening of cases, parallel increase in visa issuance will not result immediately. Security screening and other immigration law requirements involve additional time after the approved case is sent to the field. When a full field staff is on duty a marked step-up in the number of visas issued under this section is expected.

Other sections (orphans, spouse, or child of adjusted first preference immigrant)

It is estimated that 7,644 visas will be available under sections of this act other than the foregoing. These cases include orphans, tuberculars, illegitimate children, and otherwise excludable aliens. Approximately 1,318 or 17 percent of the potential visas under these sections were issued as of May 31, 1958, constituting 4 percent of the 32,253 visas issued as of that date.

CONCLUSION

Progress under Public Law 85-316 has been satisfactory and planned goals substantially have been met. Effort during the first 9 months under the act was devoted to organizing the program, and to the issuance of visas to relatives of United States citizens, lawfully admitted aliens, persons with special skills, and others entitled to immigration preference. Effort also has been concentrated on insuring that all applicants entitled to regular quota numbers are issued visas before the close of the fiscal year. There has been considerable achievement with regard to refugee-escapee cases, which it was clear from the start would require the greatest time and review. It is expected that during the next fiscal year accomplishments under all sections of Public Law 85-316 will proceed on schedule and that program goals will be met or exceeded.

ISSUANCE OF PASSPORTS—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 417)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Foreign Relations:

To the Congress of the United States:

Since the earliest days of our Republic, the Secretary of State has had the authority to issue or deny passports. Historically this authority stems from the Secretary's basic responsibilities as the principal officer of the President concerned with the conduct of foreign relations. Congress has over a period of years given the Secretary of State certain additional statutory authority in the field.

In recent years the Secretary of State has based his limitation of passports on two general grounds. The first of these has been that an applicant's travel, usually to a specific country or countries, was inimical to United States foreign relations. The second of the general grounds of denial has been that the applicant is a member of the Communist Party; is under Communist Party discipline, domination, or control; or that the applicant is traveling abroad to assist knowingly the international Communist movement.

Recently the Supreme Court limited this power to deny passports under existing law. It is essential that the Government today have power to deny passports where their possession would seriously impair the conduct of the foreign relations of the United States or would be inimical to the security of the United States.

Moreover, the Secretary should have clear statutory authority to prevent Americans from using passports for travel to areas where there is no means of protecting them, or where their presence would conflict with our foreign-

House

Aug 1, 1958

16. PUBLIC DEBT. The Ways and Means Committee reported without amendment H. R. 13580, to increase the public debt limit to \$285 billion (H. Rept. 2353). p. 14542
17. TRANSPORTATION. The Interstate and Foreign Commerce Committee reported with amendment H. R. 8742, to provide a 2-year statute of limitations on actions involving transportation of property and passengers of the U. S. Government (H. Rept. 2346). p. 14542
18. MINERAL LANDS. The Interior and Insular Affairs Committee reported without amendment S. 2517, to authorize the States to choose mineral lands in making selections in lieu of sections of public lands occupied before State claims were made (H. Rept. 2347). p. 14542
19. ELECTRIFICATION. The Public Works Committee reported without amendment S. 1869, to provide TVA with the authority to issue bonds to finance the construction of new generating capacity (H. Rept. 2350). p. 14542
20. RADIO FREQUENCIES. The Interstate and Foreign Commerce Committee was granted permission until midnight Sat., to file a report on S. J. Res. 106, to establish a commission to investigate the utilization of the radio and television frequencies allocated to agencies and instrumentalities of the Federal Government. p. 14540
21. IMPORTS. Received the conference report on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act (H. Rept. 2352). pp. 14539-40, 14542
22. HOUSING. The Banking and Currency Committee was granted permission until midnight Sat., to file a report on S. 4035, the omnibus housing bill. p. 14520
23. FARM AID. Rep. Judd inserted the results of a questionnaire he had sent to his constituents relating to aid to farmers, foreign aid, balanced budget, etc. pp. 14531-34
24. FOREIGN TRADE. Received from the State Department a report on foreign trade and a supplement, "Statistical Review of East-West Trade 1956-57." p. 14541
25. ACCOUNTING. Received from the Treasury a report of the Bureau of Accounts covering restoration of balances withdrawn from appropriation and fund accounts under the control of Treasury. p. 14541
26. LEGISLATIVE PROGRAM. Rep. McCormack announced the following legislative program: Mon., Aug. 4: Consent Calendar and the following bills to be considered under suspension of the rules: S. 4071, the farm bill, H. R. 8382, the freight forwarder bill, H. R. 474, coordination of forwarding and servicing of water-borne export and import foreign commerce, H. R. 11056, import restrictions on fruits and nuts, and S. J. Res. 106, investigation of radio and television frequencies; Tues. : H. R. 13580, increase in public debt limit, if a rule is granted; Wed., and remainder of week, if rules are granted, S. 4035, the housing bill, S. 3683, the area redevelopment bill, and H. R. 13247, the education bill. He also stated that he did not know whether or not H. R. 9521, relating to use of chemical preservatives on food, would be considered this session since it was a controversial bill.
27. ADJOURNED until Mon., Aug. 4. p. 14541

ITEMS IN APPENDIX

28. FORESTRY; MINERALS. Extension of remarks of Sen. Neuberger discussing progress being made under Public Law 167, 84th Cong., the Multiple Surface Use Act and inserting 2 articles reporting on a test case. p. A6902
29. SMALL BUSINESS. Sen. Sparkman inserted an article, "Aid for Small Business," which "highlights three separate moves on the small-business front." p. A6906
30. ALASKA. Del. Bartlett inserted a speech describing the land situation in Alaska. pp. 6910-2
31. EXPENDITURES. Sen. Thurmond stated that "one of the greatest threats to the security of this Nation lies in the danger that the Federal Government will spend itself into a state of collapse," and inserted an article on this subject. p. A6915
32. ST. LAWRENCE SEAWAY. Rep. Dorn inserted two editorials describing the effect of the opening of the seaway on the port of New York. pp. A6923-4, A6927-8
33. SOCIAL SECURITY. Speech in the House by Rep. Dooley favoring H. R. 13459, to increase certain benefits under the Social Security Act. pp. A6928-9

BILLS INTRODUCED

34. ETHICS. S. 4223, by Sen. Case, to promote public confidence in the integrity of Congress and the executive branch; to Rules and Administration Committee. Remarks of author. p. 14496-8
35. MONOPOLIES. S. 4224, by Sen. Long, to require the filing of evidentiary briefs by the United States in connection with the entry of consent decrees, judgments, and orders in civil antitrust actions; to Judiciary Committee.

BILLS APPROVED BY THE PRESIDENT

36. FORESTRY. H. R. 12161, which authorizes the Secretary, upon the request of local governments, to designate areas (not to exceed 640 acres) of national-forest land, or land administered by him under Title III of the Bankhead-Jones Farm Tenant Act, as townsites. Authorizes him to divide such areas into town lots to be offered at public sale to the highest bidder for not less than appraised value. Provides that lots offered at a public sale for which there is no satisfactory bid may be disposed of at private sale for not less than the appraised value; persons occupying such lands on which improvements have been constructed by him or his predecessor shall be given the opportunity to purchase the offered lands at appraised value; and no more than three town lots may be sold to any person or private corporation, firm, or agency. Approved July 31, 1958 (Public Law 85-569, 85th Congress).
37. FOOT-AND-MOUTH DISEASE RESEARCH. S. 3076, authorizes the carrying or shipment of foot-and-mouth disease virus under adequate safeguards of packaging and handling across the U. S. mainland either to or from the Plum Island laboratory. Approved July 31, 1958 (Public Law 85-573, 85th Congress).
38. APPROPRIATIONS. H. J. Res. 672, which makes temporary appropriations until August 31, 1958, to various agencies until their regular 1959 appropriation bills are enacted. Approved July 31, 1958 (Public Law 85-572, 85th Congress).

ANTIDUMPING ACT, 1921

AUGUST 1, 1958.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 6006]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3 and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(1) *By inserting after the second sentence of subsection (a) thereof the following sentence: "For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative."*

And the Senate agree to the same.

W. D. MILLS,
N. J. GREGORY,
AIME J. FORAND,
DANIEL A. REED,
RICHARD M. SIMPSON,

Managers on the Part of the House.

HARRY F. BYRD,
ROBT. S. KERR,
CLINTON P. ANDERSON,
EDWARD MARTIN,
JOHN J. WILLIAMS,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: Under section 201 (a) of the Antidumping Act, 1921, whenever the Secretary of the Treasury determines that a class or kind of foreign merchandise is being (or is likely to be) sold in the United States or elsewhere at less than its fair value, he is required to so advise the United States Tariff Commission. Within 3 months thereafter the Tariff Commission is required to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. After such investigation as it deems necessary, the Tariff Commission is required to notify the Secretary of the Treasury of its determination.

Senate amendment No. 1 added to the House bill a provision under which, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if—

(1) The Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative, or

(2) The said Commission shall fail to make a determination within the said 3 months period.

Under the conference agreement, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

Amendments Nos. 2 and 3: These are clerical amendments. The House recesses.

W. D. MILLS,
N. J. GREGORY,
AIME J. FORAND,
DANIEL A. REED,
RICHARD M. SIMPSON,
Managers on the Part of the House.

inconsistent with the duties, obligations, and fealty of a member of a union, or violation of sound trade-union principles." And the revealed use of the receivership or trustee device for internal political purposes to stifle local union autonomy is indefensible. Nor would anybody want to defend union disciplinary procedures by which it is possible for assailed autocratic leadership to act as accusers as well as judges. The fact that the upholsterers and the auto workers have established independent public review boards in disciplinary proceedings evidences recognition of the need for improving upon the past.

But improving upon the past is quite a different thing from placing union procedures in a doctrinaire straitjacket which cannot be altered to meet the exigencies of collective bargaining. Democracy without organization has brought about the fall of governments. It can make a shambles of responsibility in the field of collective bargaining particularly in instances where a union leader is required to temper overzealous unionists whose demands he recognizes as unreasonable, or is obliged to concur in management's disciplinary action against a member, or is placed in the position of attempting to reconcile craft and industrial interests in the same bargaining unit. It is my hope that our deliberations in the field of trade-union democracy, as in regulatory labor legislation generally, will yield solutions which leave our system of collective bargaining in a healthy state.

PROGRAM FOR THE WEEK OF AUGUST 4

(Mr. MARTIN asked and was given permission to address the House for 1 minute.)

Mr. MARTIN. Mr. Speaker, I ask for this time in order to inquire of the majority leader concerning the program for the rest of the day and for next week.

Mr. McCORMACK. There is no further program for this afternoon.

The program for Monday is as follows: The Consent Calendar will be called. There are 20 bills under suspension, as follows:

S. 4071, agriculture, provide more effective marketing programs.

S. 4208, authorization, appropriation for Aeronautics and Space Administration.

S. 3880, create Federal Aviation Agency.

S. 166, veterans, education and training benefits.

S. 1698, veterans, filing claims, veterans' Readjustment Assistance Act, mustering-out payments.

H. R. 13559, veterans, war orphans, special training.

H. R. 13371, vessels, payments to revolving fund.

S. 1798, Alaska, vessels, inspection requirements.

H. R. 13153, vessels, ship-mortgage insurance—floating drydocks.

H. R. 8382, vessels, freight forwarders, foreign licensing.

H. R. 474, repeal section 217, Merchant Marine Act, 1936, as amended.

S. 2255, Merchant Marine Act, authorize investment of funds.

H. R. 8129, providing greater construction, private financing of vessels.

S. 1728, Maritime Academy Act of 1957.

H. R. 7866, amend title 28, United States Code, Court of Customs and Patent Appeals.

H. R. 13552, provides for the design of the flag of the United States.

H. R. 11056, agriculture, quality regulation of imports.

S. J. Res. 106, investigate radio and television frequencies.

S. 375, Interstate Commerce Act, filing of documents, motor vehicles.

H. R. 12876, extend title 7 of Public Health Act.

A number of those bills are very important pieces of legislation.

Mr. MARTIN. An inquiry was made if that is all the gentleman expects to call Monday.

Mr. McCORMACK. I think that is a very pertinent inquiry.

I have talked with my friend from Massachusetts about this. I was going to ask unanimous consent that if these bills are not completed under suspension on Monday it may be in order for the Speaker to recognize Members for that purpose on Tuesday.

Mr. MARTIN. I would have no objection to that, because I think the quicker we get the work done the sooner we can all go home. I understand that will include any additional suspensions that may come up.

Mr. McCORMACK. Exactly.

I submit that request, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. On Tuesday, if a rule is reported out on the bill to increase the public debt limit, that will come up then.

Then the bill H. R. 10045, to reconvey lands acquired for the Burke Airport. The gentleman from Illinois [Mr. ALLEN] had a colloquy with me last week about that. As a member of the Committee on Rules he requested that the bill be programmed and I told him I would, so I am programming it for Tuesday.

Any rollcall votes other than on rules on Monday or Tuesday will go over until Wednesday, because there are 4 or 5 primaries on Tuesday.

As to the remainder of the week, on Wednesday there will be the bill H. R. 13507, the Welfare and Pension Plans Disclosure Act. The program for the rest of the week is dependent upon rules, and if rules are reported out I will announce the program to the House just as soon as I can. The bills I have in mind are: H. R. 13247, the National Defense Education Act; S. 4035, the renewal of housing and urban communities bill; S. 3683, the distressed areas redevelopment bill; and the renegotiation bill.

Mr. WILLIAMS of Mississippi. Mr. Speaker, if the gentleman will yield, can he tell us what he has in mind for the bill H. R. 9521, from the Committee on Interstate and Foreign Commerce, on which a rule has been granted?

Mr. McCORMACK. That bill is very controversial. I feel I should bring up the important legislation on which action must be taken.

Mr. WILLIAMS of Mississippi. This legislation is rather important.

Mr. McCORMACK. That is a question of fact. This is coming up at the tail end of the session. The gentleman appreciates that fact. I would rather give the right-of-way to "must" legislation.

Mr. WILLIAMS of Mississippi. It is the gentleman's intention to bring this bill up before the close of the session?

Mr. McCORMACK. Intention and ability are two different things.

AMENDMENT OF ANTIDUMPING ACT

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, Friday, August 1, to file a conference report and statement of the managers on the part of the House on H. R. 6006, a bill to amend certain provisions of the Antidumping Act.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The conference report and statement follow:

CONFERENCE REPORT (H. REPT. No. 2352)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(1) By inserting after the second sentence of subsection (a) thereof the following sentence: 'For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.'"

And the Senate agree to the same.

W. D. MILLS,
N. J. GREGORY,
AIME J. FORAND,
DANIEL A. REED,
RICHARD M. SIMPSON,

Managers on the Part of the House.

HARRY F. BYRD,
ROBERT S. KERR,
CLINTON P. ANDERSON,
EDWARD MARTIN,
JOHN J. WILLIAMS,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and

for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: Under section 201 (a) of the Antidumping Act, 1921, whenever the Secretary of the Treasury determines that a class or kind of foreign merchandise is being (or is likely to be) sold in the United States or elsewhere at less than its fair value, he is required to so advise the United States Tariff Commission. Within 3 months thereafter the Tariff Commission is required to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. After such investigation as it deems necessary, the Tariff Commission is required to notify the Secretary of the Treasury of its determination.

Senate amendment No. 1 added to the House bill a provision under which, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if—

(1) The Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative, or

(2) The said Commission shall fail to make a determination within the said 3 months' period.

Under the conference agreement, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

Amendments Nos. 2 and 3: These are clerical amendments. The House recedes.

W. D. MILLS,
N. J. GREGORY,
AIME J. FORAND,
DANIEL A. REED,
RICHARD M. SIMPSON,

Managers on the Part of the House.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow in which to file reports on S. 3880, S. 375, and Senate Joint Resolution 106.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

IRENE MONTOYA

Mr. LANE submitted the following conference report and statement on the bill S. 493, for the relief of Irene Montoya:

CONFERENCE REPORT (H. REPT. NO. 2345)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 493) entitled "An act for the relief of Irene Montoya," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same.

THOMAS J. LANE,
HAROLD D. DONOHUE,
RICHARD H. POFF,

Managers on the Part of the House.

JOHN A. CARROLL,
THOS. C. HENNINGS, JR.,
ROMAN L. HRUSKA,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 493) entitled "An act for the relief of Irene Montoya," submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

As this bill passed the Senate it provided for payment of \$3,500 to the legal guardian of Irene Montoya. The House amended the bill by increasing the amount to \$7,500, by eliminating the provision for an attorney's fee, and providing that such payment should be final. Therefore, the Senate conferees concurred in the House action.

THOMAS J. LANE,
HAROLD D. DONOHUE,
RICHARD H. POFF,

Managers on the Part of the House.

COMMITTEE ON AGRICULTURE

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight Saturday night to file reports on certain bills.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALENDAR WEDNESDAY BUSINESS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMUNITY FACILITIES ACT

(Mr. FOGARTY (at the request of Mr. McCORMACK) was given permission to extend his remarks at this point in the RECORD.)

Mr. FOGARTY. Mr. Speaker, I rise to join my colleagues in support of this measure now before us and to outline to those opposed the urgent necessity for undelayed action in making the Community Facilities Act an actuality.

We are not over the hill yet in this depressed period through which we have been going for the last several months—not by any stretch of the imagination. The labor force in my small State of Rhode Island is suffering from acute and substantial labor surplus. According to the Department of Labor, Providence—

the State's major production and employment center—and Newport, a smaller area, cannot expect any marked change in the employment picture for the next few months. To these people who constitute the 12 percent unemployed in the city of Providence, and to others throughout the State, as well as in many other areas of the country, this depression is frighteningly real. For some, unemployment compensation has permitted a bare existence. For still others, compensation has ceased.

Gentlemen, I feel that it is incumbent upon this body to protect the general welfare of all its citizens and to take every conceivable avenue which may lead to a stabilized economy. I am sure most of you share this view. We have before us today an excellent opportunity to create employment while at the same time we assist local units of government to construct, repair, and improve public facilities. This is not a proposal to "make" work through unnecessary construction. The projects to be undertaken are either currently needed and overdue, or are predicated upon the increased population which all of the experts agree will most surely occur. The beneficial results of this legislation cannot be overemphasized.

First, the projects included under this bill—streets, highways, libraries, recreational facilities, hospitals, fire protection and police buildings, water and sewage facilities, to mention a few—are of such a nature that communities can begin construction immediately, thereby achieving needed employment within a short space of time.

Secondly, the facilities eligible for construction under this act are of urgent, immediate, necessity to many of our towns and cities today—regardless of population or geographical location.

Thirdly, the demand for construction materials will generate employment of other workers thus creating an increased demand for consumer and other goods. This is not conjecture; this is a proven economic principle. If there is any question as to the imperative urgency of stimulating economic activity, witness the latest reports on manufacturers' sales and factory orders. While June showed a slight increase over May, they are still 8 percent below June 1957 and backlogs of unfilled orders continue to decline.

The rapid increase in expenditures experienced by our State and local governments has posed serious financial problems. Taxes have been increased substantially since World War II. It would be virtually impossible to increase taxes in an amount sufficient to accommodate the growing needs of most communities. The only other source of capital for these governments is revenue bonds.

Interest rates generally have been steadily increasing. For this reason many communities have been completely stymied in their efforts to secure suffi-

32. PEANUTS. The Agriculture and Forestry Committee reported without amendment H. R. 12224, to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment (S. Rept. 2161). p. 14546
33. LIVESTOCK DISEASES. The Agriculture and Forestry Committee reported with amendments H. R. 12126, to extend to wild animals the same prohibition against entry into the U. S. as domestic animals from any country where rinderpest or foot-and-mouth disease exists (S. Rept. 2186). p. 14546
34. TRAVEL EXPENSES. The Government Operations Committee reported with amendments H. R. 11133, to amend the Administrative Expenses Act so as to provide for the payment of travel costs for certain Federal personnel appointments to areas in which the CSC has determined there is a manpower shortage (S. Rept. 2185). p. 14546
35. IMPORTS. Agreed to the conference report on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Anti-dumping Act. p. 14645
36. FOREIGN TRADE. Received from the State Department a report, "Statistical Review of East-West Trade 1956-57," for the period July 1-Dec. 31, 1957. p. 14544
37. FISCAL POLICY. Sen. Bush predicted that the budget deficit could go as high as a total of \$20 billion for fiscal years 1958-59-60 if expenditures were not cut or taxes increased, discussed certain steps he urged to "recapture control of the financial affairs of the United States," and inserted various materials on this subject. pp. 14633-42
38. INFORMATION. Sen. Bible commended the Senate on passage of H. R. 2767, to prevent the use of section 161 of the Revised Statutes as authority for the withholding of information or limiting the availability of records to the public. p. 14548
39. PERSONNEL ETHICS. Sen. Neuberger inserted a column commending Sen. Case's proposed bill to require public accounting for gifts received by Government officials and the placing of all communications on a case pending before a Federal agency on the public record. pp. 14549-50
40. COUNTRY LIFE COMMISSION. Sen. Wiley urged the enactment of the bill to provide for a Country Life Commission, pointed to the problems involved in the changing character of American agriculture with which the Commission might deal, and inserted a favorable resolution from the Wis. Council of Farmer Cooperatives. pp. 14613-14
41. STATEHOOD. Sen. Allott criticized Sen. Humphrey for what he asserted was a partisan assessment of the chief supporters of Alaskan statehood and urged that bipartisan cooperation begin to pass the Hawaiian statehood bill. pp. 14666-7
42. WATERSHEDS. Received from the Budget Bureau plans for works of improvement on Furnace Brook-Middle River, Conn. and Mass.; Busseron watershed, Ind.; and Crooked Creek, Iowa; to the Agriculture and Forestry Committee. p. 14544
43. BORROWING AUTHORITY. Received from the Office of Defense and Civilian Mobilization a report on borrowing authority for the first quarter of 1958. p. 14544

44. LEGISLATIVE PROGRAM. Sen. Johnson announced that the Senate was entering the last days of the session but that he could not predict the time of adjournment, only that "this body will not end its proceedings until it has finished its work." pp. 14543-4

ITEMS IN APPENDIX

45. FAIR TRADE. Rep. Alger stated that the proposed fair-trade bill "would not be fair to anyone--not to the consumer, nor the retailer for whom it is intended to protect," and inserted 2 editorials on this subject. pp. A6942, A6947
46. POSTAL RATES. Rep. McCarthy inserted an article, "Mail Rates Should Be Based on Delivery Cost," and stated that "it points out the real need for a re-examination of the whole mail-rate structure." pp. A6946-7

BILLS INTRODUCED

47. PERSONNEL. H. R. 13653, by Rep. Haley, to terminate the payment of certain additional compensation to civilian officers and employees of the United States stationed outside the continental United States or in Alaska; to Post Office and Civil Service Committee.
48. PROPERTY. H. R. 13657, by Rep. Patterson, to amend the Federal Property and Administrative Services Act of 1949 to permit the donation of surplus property to volunteer fire-fighting organizations; to Government Operations Committee.

BILL APPROVED BY THE PRESIDENT

49. SEEDS. S. 1939, to amend the Federal Seed Act so as to require that seed treated to control diseases should be labeled to show that it has been treated, prohibit false representation with respect to certified seed, permit the sale of vegetable seed mixtures which was previously prohibited, require record keeping with respect to vegetable seed, exempt certain shipments from the detailed labeling requirements, add sugar beets to the kinds of seed subject to the act, and clarify the intent of the present wording with respect to disclaimers or limited warranty statements. With respect to imported seed, requires labeling of vegetable seed as to variety, provides penalties for false labeling, and provides for exemption from the quality requirements of seed imported for experimental or plant breeding purposes and seed of American origin refused admission into a foreign country. Provides for charging importers of seed for the cost of supervision required in connection with importations. Approved August 1, 1958 (Public Law 85-581, 85th Congress).

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COMMITTEE HEARINGS ANNOUNCEMENTS:

Aug. 5: Increase in public debt limit, H. Rules. Extension of Mexican farm labor Program, H. Rules. Mutual security appropriations, S. Appropriations (exec-to mark up). Encourage transfers of employees to international organizations, H. Civil Service.

Johnston, S. C.	McNamara	Saltonstall
Jordan	Monroney	Smathers
Kefauver	Morse	Smith, Maine
Kerr	Morton	Smith, N. J.
Knowland	Mundt	Sparkman
Kuchel	Murray	Stennis
Langer	Neuberger	Symington
Lausche	O'Mahoney	Talmadge
Long	Pastore	Thurmond
Magnuson	Proxmire	Watkins
Malone	Purtell	Wiley
Mansfield	Revercomb	Williams
Martin, Pa.	Robertson	Young
McClellan	Russell	

Mr. MANSFIELD. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from Tennessee [Mr. GORE], the Senator from Missouri [Mr. HENNING], the Senator from Florida [Mr. HOLLAND], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

Mr. DIRKSEN. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Vermont [Mr. FLANDERS], the Senator from Iowa [Mr. MARTIN], the Senator from Michigan [Mr. POTTER], the Senator from Kansas [Mr. SCHOEPP], and the Senator from Minnesota [Mr. THYE] are absent on official business.

The Senator from New Jersey [Mr. CASE], the Senator from Arizona [Mr. GOLDWATER], the Senator from New York [Mr. JAVITS], and the Senator from Maine [Mr. PAYNE] are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

AMENDMENT OF ANTIDUMPING ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JORDAN in the chair). The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of August 1, 1958, p. 14539, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BYRD. Mr. President, this is a unanimous conference report. It is signed by the conferees of both the Senate and the House. The only change it makes in the bill is to provide that when the Tariff Commission renders an equal decision—3 one way and 3 the other way—it is affirmative with respect to injury. That is the only change which is made in the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Ratchford, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, The PRESIDING OFFICER (Mr. JORDAN in the Chair) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the appropriate committees.

(For the nominations this day received, see the end of Senate proceedings.)

AMENDMENT OF DEFENSE PRODUCTION ACT OF 1950

The Senate resumed the consideration of the bill (S. 4162) to further amend the Defense Production Act of 1950, as amended.

Mr. CLARK. Mr. President, if there be no amendment to be offered to the bill, I suggest that the question be put on the engrossment and third reading of the bill.

The PRESIDING OFFICER (Mr. JORDAN in the chair). The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 4162) was ordered to be engrossed for a third reading and was read the third time.

Mr. CLARK. Mr. President, now that the bill has been read the third time, and while a number of Senators who previously were absent are in the Chamber, I should like to make a brief explanation of Senate bill 4162, to further amend the Defense Production Act of 1950 as amended. Enactment of the bill was requested by the administration, by the Office of Defense and Civilian Mobilization, and the General Services Administration, on the ground that they feared that during a time when the Congress was in recess they would find themselves required to purchase strategic materials but would not have the authority to do so.

When the bill is enacted, those agencies will have an additional \$300 million of purchasing power for that purpose. That result will be reached by means of canceling \$300 million of indebtedness incurred under the Defense Production Act, representing all losses sustained and all nonrecoverable expenses incurred prior to July 1, 1958, by the Government in carrying out functions under sections 302 and 303 of the act with funds borrowed from the Treasury under section 304 of the act.

If the bill is passed, the expenses of the Government will not be increased, but \$300 million of such indebtedness will be canceled. Thus, the organization will be able to operate with an expanded, effective borrowing authority in connection with the purchase of materials which it may have to purchase when the Congress is not in session.

Mr. CHAVEZ. Mr. President, I was not in the Chamber when the third reading of the bill was reached. But I am very glad that my good friend, the Senator from Pennsylvania [Mr. CLARK], whom I consider to be a very liberal Member, has made a statement in explanation of the bill. I wish I could have been in the Chamber at the time.

So far as I am concerned, Mr. President, I wish to discuss the bill, even at this late hour. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Fulbright	Monroney
Allott	Green	Morse
Anderson	Hayden	Morton
Barrett	Hickenlooper	Mundt
Beall	Hill	Murray
Bennett	Hoblitell	Neuberger
Bible	Hruska	O'Mahoney
Bridges	Humphrey	Pastore
Bush	Ives	Proxmire
Butler	Jackson	Purtell
Byrd	Jenner	Revercomb
Capehart	Johnson, Tex.	Robertson
Carlson	Johnston, S. C.	Russell
Carroll	Jordan	Saltonstall
Case, S. Dak.	Kefauver	Smathers
Chavez	Kerr	Smith, Maine
Church	Knowland	Smith, N. J.
Clark	Kuchel	Sparkman
Cooper	Langer	Stennis
Cotton	Lausche	Symington
Curtis	Long	Talmadge
Dirksen	Magnuson	Thurmond
Douglas	Malone	Watkins
Dworshak	Mansfield	Wiley
Eastland	Martin, Pa.	Williams
Ervin	McClellan	Young
Frear	McNamara	

The PRESIDING OFFICER. A quorum is present.

The bill having been read the third time, the question is, Shall it pass?

Mr. CHAVEZ. Mr. President, this is a very important bill, irrespective of the feelings of individual Senators. No one is questioning the sincerity of purpose of any Senator who votes for or against the bill; but I think it is so important that every Senator should know about it.

The bill is Senate bill 4162. It was introduced by the Senator from Arkansas [Mr. FULBRIGHT], by request. It so happens that the Senator from Arkansas is not present in the Chamber at this time, so he cannot be interrogated as to who requested the introduction of the bill.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. CHAVEZ. I yield.

Mr. CLARK. I am happy to tell the Senator from New Mexico that it was introduced at the request of the Eisenhower administration, as recommended by the Office of Defense Mobilization and the General Services Administration, with the approval of the Bureau of the Budget.

Mr. CHAVEZ. If it comes from the Eisenhower administration, I have no objection to the administration recommending that the bill be passed by Congress. I believe that any bill recommended by the administration should have the respect and proper action by Congress. The Bureau of the Budget and the General Services Administration are essential agencies.

Now let us look at the bill itself. Let us examine the provisions of the bill, so that we will know what we are doing, and then, if we are in favor of the bill, let us vote for it. The Government has been buying some minerals throughout the years and stockpiling them. There is nothing wrong with that. We have passed a law granting such authority. Among other things the bill provides:

All losses sustained, and all nonrecoverable expenses incurred, prior to July 1, 1958—

By whom?—

by departments, agencies, officials, and corporations of the Government in carrying out functions under sections 302 and 303 of this act—

Those are the sections which authorize the purchase of the minerals—
through the use of funds borrowed—

From whom?—

from the Treasury of the United States—

Who is the Treasury? It is the American taxpayers. If we want to do that, it is our business, and we can vote for it or against it, but let us know what we are doing—

of funds borrowed from the Treasury of the United States pursuant to this section—

That is the section which permitted the Government to buy and to stockpile the materials—

shall, with the approval of the Director of the Bureau of the Budget, be written off—

Written off—

by such departments, agencies, officials, and corporations, and the notes, debentures, bonds, or other obligations issued to the Secretary of the Treasury shall be canceled to the extent of the respective amounts so written off.

Mr. President, we all want to do the right thing. I am positive there is not a Senator who does not want to take care of the interests of the Government as he sees them in conscience and according to the oath he took. However, I cannot understand that there is any benefit to the American taxpayers in providing that after departments or agencies of the Government incur indebtedness in a certain amount, we should relieve them of their obligations. It might be that I do not understand the proposal. But I think the American taxpayer, in view of the difficulty he has to meet the demands of the Internal Revenue office, must know about the costs of Government.

I personally do not feel that a bill of this nature should be considered by the Senate. If it is necessary to consider it, there should be full debate and its purposes should be thoroughly explored. I say this in all sincerity. I respect and admire the Senator from Illinois [Mr. DOUGLAS]. There are very few times when I disagree with him. However, let me point to what he says in his individual views. I am appealing to the reason of those Senators who are present and who have taken an oath of office. I ask Senators to listen to what the Senator from Illinois says in his individual views:

I am not convinced from my brief review of the record of the hearings on S. 4162 that it is either necessary or desirable at

this time to write off these losses and thus increase the borrowing authority under this law by \$300 million.

That amount of money might not mean very much in these days of \$40 billion appropriation bills, but it is a great deal of money none the less.

GSA reported that there was \$426 million borrowing authority remaining on June 30, 1958, and estimated that there would be \$66.1 million remaining on June 30, 1959. I would have preferred—

This is a good reason for me—

therefore, to postpone consideration of this measure until January 1959, so that a more complete study of the programs might be made. I raise no objection, however, to the committee's decision to report the bill out to permit Senate consideration in this session.

Is there anything more reasonable than the suggestion to postpone consideration? I have tried in my feeble way, probably inadequately, to tell Senators what this bill means. I am willing to submit to what the Senate does. It is up to the Senate.

Mr. CLARK. Mr. President, very briefly, in reply to what the Senator from New Mexico has said, I should like to say that these losses have already been incurred. There is no possibility of recouping them. The cancellation is merely a bookkeeping transaction. Of course, the net result will be to give additional borrowing authority of about \$300 million. An itemization of the amount is set forth on page 5 of the committee report.

A majority of the committee—in fact every member of the committee with the exception of the Senator from Illinois [Mr. DOUGLAS]—were convinced that it was wise protection to give the administration the additional borrowing authority which it had requested, because of the possibility that the agencies and departments may run out of borrowing authority while Congress is not in session. For that reason the committee reported the bill, and it was for that reason it was felt necessary to call the bill up for consideration at this time, in the hope that it may be passed promptly and thus give the other body an opportunity to pass it also at this session, so that it may become law and thus provide the administration with the additional borrowing authority which, in the judgment of the committee, with the exception of one member, the administration needs.

I have discussed the matter with the distinguished Senator from Illinois this afternoon, and he has advised me that he does not wish to make any further objection to the bill inasmuch as his views have been set forth.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. WILLIAMS. I understood the Senator from Pennsylvania to say that the purpose of the bill is to write off losses which have already been sustained.

Mr. CLARK. That is my understanding.

Mr. WILLIAMS. Can the Senator give us a list of the losses and tell us what they represent?

Mr. CLARK. I think they are summarized on page 5 of the bill.

Mr. WILLIAMS. They are summarized, but they are not summarized in such a way as the Government would accept a return from a taxpayer. For instance, it reads:

Net operating loss, all programs, \$84,798,000.

That is a broad term. What is embraced in all programs? What does that include? It could include a multitude of items. What are the items which make up the \$84,798,000? There must be some itemized breakdown; otherwise, a round figure of \$85 million would have been stated.

Mr. CLARK. If my friend from Delaware will cast his eye farther down on page 5, he will see the item:

The major programs on which largest losses were incurred up to March 31, 1958.

The losses incurred are listed under the headings of the different commodities involved. It is true that to some extent we are indulging in estimates; on the other hand, in a colloquy I had with the Senator informally a while ago, I think he suggested that the exact amounts as they were written off should be reported to the Senate.

It is my belief that under the basic legislation that is the broad implication of it. But I agree with the Senator from Delaware that it was the sense of those of us who are now addressing ourselves to the bill that those losses should be written off as they really have to be written off. I further agree that we do not have an exact cent-by-cent breakdown.

Mr. WILLIAMS. If it is proposed to write off the losses, of which there is a rough estimate of \$300 million, would it not have been better to submit to the Senate an itemized breakdown of what it is planned to write off and to tell us what that represents?

Mr. CLARK. Does the Senator have before him a copy of the hearings.

Mr. WILLIAMS. Yes.

Mr. CLARK. I ask him to turn to page 25, exhibit A, where the generalized breakdown appears.

Grand total losses, June 30, 1958, \$300,117,000.

I turn now to exhibit B-1, on page 27. This is a specific breakdown by commodities; sales; inventory at beginning of period; purchases, manufacturing, and direct expenses; less: inventory at end of period; cost of commodities sold; gross profit or loss.

That is about as much as we could get from the General Services Administration or the Office of Defense Mobilization. I think that, in part, answers the Senator's question. I agree that it does not answer it entirely.

Mr. WILLIAMS. On page 27, exhibit B-1, to which the Senator referred, the last column is entitled "Gross profit or loss." I notice that the total amount is \$73,208,088.22. What about the other \$227 million if this is an itemized breakdown, and is it the only one which is available?

Mr. CLARK. Treasury interest is \$88 million. That is found on page 25.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued August 3, 1958
For actions of August 7, 1958
85th-2d, No. 135

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HIGHLIGHTS; House agreed to conference report to extend trade agreements authority. Sens. Aiken and Stennis urged compromise on the farm bill. Senate debated bill to revise procedures for election of CSS farmer committeemen. Senate agreed to conference report on bill prohibiting onion futures trading. Sens. Proxmire and Humphrey criticized farm program and size of USDA budget. House Rules Committee cleared area redevelopment bill. Both Houses agreed to conference report on Defense Department appropriation bill. Sen. Anderson submitted and discussed measure to re-establish acreage allotments and price support levels for 1959 upland cotton.

HOUSE

1. FOREIGN TRADE. Agreed, 161 to 56, to the conference report on H. R. 12591, to extend the authority of the President to enter into trade agreements. pp. 15170-76
2. AREA REDEVELOPMENT. The Rules Committee granted a rule for consideration of S. 3683, to establish an effective program to alleviate conditions of substantial and persistent unemployment in certain economically depressed areas. p. D814
3. MINERALS. The Rules Committee announced agreement to hold hearings on S. 4036, to provide stabilization payments to certain mineral producers. p. D814
Agreed to the conference report on S. 2069, to amend the Mineral Leasing Act so as to promote the development of coal on the public domain. p. 15186

House - Aug. 7, 1958

4. SMALL BUSINESS. Agreed to the conference report on S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. pp. 15182-86
5. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 12738, the Defense Department appropriation bill for 1959, and acted on amendments in disagreement. This bill will now be sent to the President. pp. 14176-82, 15146-7 (The conferees deleted the requirement for reports on budgetary reserves, but requested that the Budget Bureau arrange for such reports.)
6. IMPORTS. Agreed to the conference report on H. R. 6006, to provide for greater certainty, speed, and efficiency in the enforcement of the Antidumping Act. pp. 15186-87
7. CONTRACTS. Passed as reported H. R. 11749, to extend the Renegotiation Act of 1951 for 6 months, until June 30, 1959. pp. 15188-89
8. EDUCATION. Began debate on H. R. 13247, the national defense education bill, after agreeing, 265 to 108, to a Rules Committee resolution for debate on the bill. pp. 15192-218
9. PERSONNEL. The Post Office and Civil Service Committee reported H. R. 9407, with amendment, to provide additional opportunity for certain employees to obtain career-conditional and career appointments in the competitive service (H. Rept. 2506); and S. 4004, without amendment, to encourage transfers of Federal employees for service with international organizations (H. Rept. 2509). p. 15231
The Foreign Affairs Committee reported with amendment S. 3195, to authorize certain retired Federal personnel to accept and wear decorations, presents, and other things tendered them by certain foreign countries (H. Rept. 2521). p. 15232
The Post Office and Civil Service Committee issued a report on the study of manpower utilization in financial management functions in the Federal Government (H. Rept. 2512). p. 15232
The Ways and Means Committee reported without amendment H. R. 11908, to repeal Sec. 1505 of the Social Security Act so that in determining eligibility of Federal employees for unemployment compensation their accrued annual leave shall be treated in accordance with State laws (H. Rept. 2515). p. 15232
10. INSPECTION SERVICES. The Government Operations Committee reported without amendment S. 3873, to permit the interchange of inspection services between executive agencies without reimbursement or transfer of funds (H. Rept. 2508). p. 15231
11. FORESTRY. The Interior and Insular Affairs Committee reported without amendment H. R. 12242, to authorize the sale or exchange of certain Forest Service lands in Pima County, Ariz. (H. Rept. 2523). p. 15232
12. RECLAMATION. The Interior and Insular Affairs Committee ordered reported H. R. 12899, to construct the San Luis unit of the Central Valley project, Calif.; and H. J. Res. 585, to authorize studies and a report on service to certain California counties from the Central Valley project. p. D814
13. ELECTRIFICATION. The Rules Committee adopted a motion to reconsider previous action of having tabled hearing to consider the granting of a rule on S. 1869, to authorize the TVA to issue and sell bonds to assist in the financing of its power programs. p. D814

counseling for small firms will assist in filling an important need. The SBA people have felt that the inadequacy of such counseling constitutes one of the most serious handicaps which many small firms face.

Now as to the Halleck amendment, which was adopted on the floor of the House, the conferees have agreed to this but have added saving language which carries out the wishes which the author of the amendment expressed at the time the amendment was debated.

As will be recalled, as the bill was reported by the House committee, it gave the Small Business Administration two authorities with respect to chartering the small business investment companies.

First, the SBA was to have a 3-year authority in which it could charter small business investment companies; after 3 years any newly chartered companies would have to be chartered by the States.

Second, SBA could recognize and do business with small business investment companies chartered by the States, provided, of course, the companies otherwise met SBA's standards.

OVERCOMES OBJECTION OF AMERICAN BAR ASSOCIATION

But according to information presented by the distinguished gentleman from Indiana [Mr. HALLECK] while we were debating the bill, the American Bar Association objected to the SBA's having authority to charter any investment company—during the next 3 years, or at any time. Consequently, the amendment which the House adopted removed that authority. The House bill then required that any small business investment company, to be eligible to operate under this program, had to be chartered under State law for the purpose of operating under this program.

There is some doubt, however, whether existing law in all of the States is such that the small business investment companies contemplated by the legislation could be chartered.

Consequently, the conferees have agreed to retain the substance of the Halleck amendment, but added certain saving language to this effect: Where the SBA determines that the law of the State does not permit the chartering of an investment company to operate in accordance with the purposes of the act, the SBA may issue charters in such cases. This authority is limited to 3 years however. This means that those States which do not have laws that allow them to take full advantages of this legislation—if there are such States—will have 3 years in which to bring their laws into line, if they care to do so. After 3 years, SBA will not have authority to issue charters in any of the States, under any circumstances.

These are the changes of substance which the conferees have made in the bill which the House passed so overwhelmingly 2 weeks ago. It is a good bill. It will open new frontiers for small business. I hope that the House will accept the conference report.

(Mr. PATMAN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. TALLE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from Iowa.

Mr. TALLE. Mr. Speaker, I urge the adoption of this conference report, and I commend the conferees for the good work they have done.

The bill reported by the Banking and Currency Committee and passed by the House was a measure that had received thorough consideration. The committee was aware of the fact that this was pioneer legislation and required the careful thought that was given to it.

I express the hope, and it is my conviction, that as the years pass this legislation will prove to be beneficial to our country.

Mr. McDONOUGH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Georgia. I yield to the gentleman from California.

Mr. McDONOUGH. As an associate conferee and a member of the House Banking and Currency Committee with the gentleman from Georgia [Mr. BROWN] I approve this conference report. The Senate yielded in most instances to the House bill, so we have evidently written a better bill than they did. I hope the conference report will be adopted.

TODAY MARKS A HOPEFUL TURNING POINT FOR SMALL BUSINESS

Mr. ROOSEVELT. Mr. Speaker, Miss Sylvia Porter has devoted her entire column to the Johnson-Patman bill, which, when passed, will be known as the Small Business Investment Act of 1958. Needless to say, since Miss Porter is an acute analyst of business problems, she hails this legislation as a "turning point" for small business.

Both the Senate and the House passed this bill earlier in the session, and today the House has just taken a wise and important step in accepting the conference report on this bill. The bill is now well on its way to passage; we may even hope that the Senate will accept the conference report before the day is over.

As chairman of the Subcommittee on Distribution of the House Small Business Committee during the past 4 years, I have had the experience of dealing with the problems which are directly faced by the overwhelming majority of small-business firms. These are, in short, the problems which are real and immediate to the retail firms, the wholesale firms and other firms making up the "distribution" phases of American business, and these make up a large majority of all small firms in the country.

And everywhere I have turned, this problem of the small firm obtaining financing has been acute and most serious. Consequently, after these close, personal experiences, I cannot help feeling some considerable pride and satisfaction in having had a hand in this small-business legislation.

I was happy to participate in drafting, and in introducing as coauthor, the predecessor bill to the one which the House has just passed today. This was known as the small-business capital bank bill which set out, I think, the

principles and the guidelines which seemed to me best suited to meet the problem of small-business financing. It is gratifying that the legislation we have passed today did not lose sight of these principles and these guidelines. They are important. It is important to assist free enterprise to do the small-business financing job; not merely to set up or expand a Government bureau. It is important that the new financing system become profitable, self-sustaining, and independent, so that it can be cut loose from political control in Washington as quickly as possible. Only this will lead to a permanent solution of the problem that we are trying to solve.

In some respects, I think the small-business capital bank bill as we originally introduced it would have been preferable. However, it became apparent that some of the administration leaders objected to setting up a new system of small-business financing outside the control of the Small Business Administration. Accordingly, I believe that the distinguished majority leader of the Senate, Senator JOHNSON, and our own distinguished Small Business Committee chairman, WRIGHT PATMAN, were wise in introducing a substitute bill which puts control of the new system in the SBA.

The question now is, will the SBA handle this program wisely and develop it with the vigor and vision which has gone into the legislation itself. It is on this point that Miss Porter expresses a reservation about the new program. She ends her column today with this statement:

Of course, much depends on how vigorously the SBA administers the program and on how enthusiastically local investors cooperate.

Local investors will undoubtedly cooperate, and cooperate enthusiastically, if SBA provides prompt and dynamic leadership. I hope SBA will provide that leadership; I like to believe that it will. It holds a large part of America's future in its hand.

For the interest of the other Members, I would like to insert the full text of Miss Porter's column, today, which is as follows:

YOUR MONEY'S WORTH

(By Sylvia Porter)

NEW LOAN SYSTEM FOR SMALL FIRMS

The banks of this Nation are not designed or organized to provide risk capital or long-term loans for small-business firms. This, the American Bankers Association, readily admits.

The capital markets of this Nation also are not set up to provide growth capital at tolerable cost for small firms. This, the Investment Bankers Association readily admits.

Nor are the existing business-loan programs of the Federal Government and some of the States geared to doing an adequate job of meeting small-business needs for capital with which to expand and grow. Lending activities of Government agencies are comparatively meager; restrictions on their operations just about prohibit the agencies from making the type of loans small-business men so desperately seek.

For years, a dangerous vacuum has existed in the financing system of this country and because of the vacuum, the position of

the small-business man in America has steadily deteriorated.

For years, a force toward business giantism in the United States has been the money squeeze on small firms and because small firms have simply had no place to go for adequate long-term financing, increasing numbers of them have shriveled and died.

Now, though, a move is being made to fill this vacuum—as a result of the long efforts of Senator SPARKMAN, Democrat, of Alabama, and the devoted work during this congressional session of Senator JOHNSON, Democrat, of Texas, and Representative PATMAN, Democrat, of Texas.

A turning point for small business will be reached when the Small Business Investment Act of 1958 goes on the books—as is anticipated any day.

Question. What does the act provide?

Answer. It provides that Congress will appropriate \$250 million for the Small Business Administration for use in promoting the formation of local small business investment companies the Nation over. These companies are to help small firms get risk capital and long-term loans.

Question. How will the local investment companies be set up and financed?

Answer. A group of as few as 10 local businessmen can voluntarily form an investment company with the approval of the SBA. To start, the company must have a minimum of \$300,000 of capital, but half of this it can get from the SBA. The other half must be raised from private sources and the company can obtain additional capital from private sources as well.

Question. What will the investment companies do for small firms?

Answer. A local investment company may invest risk capital directly in a small firm—actually arrange to buy stock in the firm; or

It may make a long-term loan running up to 20 years, at an interest rate determined by the SBA to the firm.

The only key limitation is that the investment company can't lend an individual small business more than 20 percent of its total capital.

Of course, much depends on how vigorously the SBA administers the program and on how enthusiastically local investors cooperate.

Mr. MULTER. Mr. Speaker, I do hope that S. 3651 as brought back by the conferees will do the job that the bill sets out to accomplish.

When I objected to an amendment in the Committee of the Whole that struck out the provision for national charters, I made it clear that I did not impugn the sincerity or motives of the distinguished gentleman from Indiana [Mr. HALLECK]. The result of the conference shows that he was right about improving the amendment and at the same time proves me right.

I urged that national chartering be continued in the bill because it was in strict consonance with the principle of a dual banking system.

I hope that the new language now in the bill will help bring that about.

The purpose of this new language is to make certain that the SBA will have the discretion to grant national charters whenever and wherever it appears that a small business investment company cannot operate under State law. That does not merely mean that the company can be chartered under State law. It means that the State law and its interpretation and enforcement will permit such companies to operate fairly and profitably. If State law or the administration thereof unduly restricts or im-

pedes such operation, whether by burdensome taxation or otherwise, the Administrator may issue a national charter.

I trust that SBA will interpret and implement the statute liberally with a view to bringing to small business the financial assistance that has been lacking for too long.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BROWN of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend in the permanent RECORD on the bill S. 3651 immediately before the adoption of the conference report and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PROMOTE THE DEVELOPMENT OF COAL ON PUBLIC DOMAIN

Mr. ROGERS of Texas. Mr. Speaker, I call up the conference report on the bill (S. 2069) to amend section 27 of the Mineral Leasing Act of February 25, 1920, as amended, in order to promote the development of coal on the public domain, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 6, 1958.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ANTIDUMPING ACT, 1921

Mr. MILLS. Mr. Speaker, I call up the conference report on the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 1, 1958.)

The SPEAKER. The question is on the conference report.

The conference report was agreed to. A motion to reconsider was laid on the table.

(Mr. MILLS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLS. Mr. Speaker, as it pointed out in the statement of the managers on the part of the House, under section 201 (a) of the Antidumping Act, 1921, whenever the Secretary of the Treasury determines that a class or kind of foreign merchandise is being—or is likely to be—sold in the United States or elsewhere at less than its fair value, he is required to so advise the United States Tariff Commission. Within 3 months thereafter the Tariff Commission is required to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. After such investigation as it deems necessary, the Tariff Commission is required to notify the Secretary of the Treasury of its determination.

The Senate amended the House bill by adding a provision under which, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if first, the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or the negative; or, second, the said Commission shall fail to make a determination within the said 3 months' period.

Under the conference agreement, for purposes of section 201 (a) of the Antidumping Act, the Tariff Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or the negative.

(Mr. REED asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED. Mr. Speaker, I support the adoption of the report of the managers on the part of the House in the conference on H. R. 6006.

This legislation would make important improvements in the Antidumping Act of 1921 as amended. The Senate in acting on the House-passed version of this legislation provided two substantive amendments to the bill. These amendments relate to the provision of the law that requires the Tariff Commission within 3 months to determine whether a domestic industry is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of merchandise into the United States under circumstances of dumping. The 3-month period begins to run by notification to the Tariff Commission by the Secretary of the Treasury that foreign merchandise is being sold in the United States at less than its fair value. The two Senate amendments would have provided, first, that in instances where the Commissioners of the Tariff Commission are evenly divided as to whether an injury determination should be made in the affirmative or in the negative, the

action shall be deemed to have been an affirmative determination; and second, that if the Commission fails to make a determination within the stated 3-month period, there shall be a presumption of an affirmative determination. The conferees have accepted the first of these amendments and have rejected the second. I urge my colleagues in the House to vote in favor of the adoption of this conference report.

REDUCING MINIMUM WIDTH OF PAPER IN ROLLS IMPORTED INTO THE UNITED STATES

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 10277) to reduce from 15 to 13 inches the minimum width of paper in rolls which may be imported into the United States free of duty as standard newsprint paper, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill. The Clerk read the Senate amendments, as follows:

Page 2, after line 3, insert:

"SEC. 3. (a) Paragraph 1313 of the Tariff Act of 1930 (19 U. S. C., sec. 1001, par. 1313) is amended to read as follows:

"PAR. 1313. As used in this title, the term 'rayon or other synthetic textile,' means any fiber, filament, or fibrous structure, and any band or strip (suitable for the manufacture of textiles) not over 1 inch in width, all the foregoing whether formed by extrusion or by other processes from substances derived by man from cellulosic or noncellulosic materials by chemical processes, such as, but not limited to, polymerization and condensation, but the term does not include fibers, filaments, fibrous structures, or bands and strips of glass or other nonmetallic mineral, or of metal, paper, or natural rubber."

"(b) Notwithstanding the provisions of subsection (a) of this section, nothing in this section shall change the existing customs classification of nylon monofilament fishing line, nylon surgical sutures, nylon tennis racket strings or nylon brush bristles."

"(c) The amendment made by subsection (a) of this section shall apply to articles entered, or withdrawn from warehouse, for consumption after the 30th day after the date of the enactment of this act."

Page 2, after line 3, insert:

"SEC. 4. (a) Paragraph 1670 (b) of the Tariff Act of 1930, as amended (19 U. S. C., sec. 1201, par. 1670 (b)), is amended by striking out 'all the foregoing' and inserting in lieu thereof the following: 'and extracts, decoctions, and preparations of eucalyptus (irrespective of their chief use) suitable for use for tanning; all the foregoing.'

"(b) The amendment made by subsection (a) of this section shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this act and prior to September 29, 1960, and to articles covered by entries or withdrawals which have not been liquidated or the liquidation of which has not become final on such date of enactment."

Amend the title so as to read: "An act to reduce from 15 to 13 inches the minimum width of paper in rolls which may be imported into the United States free of duty as standard newsprint paper, and for other purposes."

Mr. MILLS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MILLS asked and was given permission to revise and extend his remarks.)

Mr. MILLS. Mr. Speaker, in the form in which H. R. 10277 passed the House of Representatives the bill simply provided for an amendment to paragraph 1722 of the Tariff Act of 1930 so as to reduce the minimum width specifications for newsprint from 15 inches to 13 inches.

The Senate, in approving this bill, added two substantive amendments. The first amendment would rewrite paragraph 1313 of the Tariff Act of 1930 so as to include therein articles derived by man from noncellulosic materials. The report of the Senate Finance Committee states that this amendment would clarify and establish as law the present Bureau of Customs classifications of "rayon and other synthetic textile," and that articles of noncellulose man-made fiber, which was unknown when the 1930 Tariff Act was enacted, will be given specific classifications without any changes in tariff rates.

The second substantive amendment made by the Senate would provide for the temporary free importation of certain extracts of eucalyptus—myrobalin—whether or not used chiefly for tanning purposes. At the present time the law provides for the temporary free importation of tanning extracts, including those from myrobalin or eucalyptus. However, in recent years it has been found that this extract is useful in connection with oil drilling and, should the chief use be in other than tanning, all imports would become dutiable. The Senate amendment would provide for duty-free status on the same temporary basis even though the chief use might be for other than tanning. The Senate amendment would provide for duty-free status until the time of the expiration of the 3-year temporary period provided for in 1957 with regard to this and other tanning extracts, and would cover all entries unliquidated at the time of passage of the bill.

Mr. Speaker, there are presently pending before the Committee on Ways and Means bills on each of the subjects covered by the Senate amendments to this bill. My colleague on the committee, the Honorable BURR P. HARRISON, has a bill—H. R. 12641—to clarify the definition of rayon or other synthetic textile, and our colleague in the House, Mr. VAN PELT, has a bill—H. R. 13225—on the subject of eucalyptus oil.

It is my understanding that the Treasury Department has indicated that no unusual administrative problems would be involved in administering the provisions of the two amendments added by the Senate.

Mr. Speaker, I urge that the House concur in and agree to the Senate amendments.

That explains the two Senate amendments.

Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. REED], the gentleman from Virginia [Mr. HARRISON], the gentleman from Missouri [Mr. CURTIS], and any other Members who desire to do so, may

extend their remarks on this bill at this point.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. REED. Mr. Speaker, I have concurred in the request of the distinguished chairman of the Committee on Ways and Means to agree to the Senate amendments to H. R. 10277. It will be recalled that this legislation as it passed the House made a change in the tariff status of newsprint so as to facilitate the domestic acquisition of newsprint paper.

In acting on this legislation the Senate has approved two amendments. The first amendment relating to the tariff status of certain synthetic fibers would give legislative effect to existing customs practice in the tariff treatment of these synthetic fibers. The second amendment pertains to eucalyptus extract and would provide for a continuation of the duty free entry for tanning purposes and would also allow its continued importation for use in drilling without payment of duty.

Mr. HARRISON of Virginia. Mr. Speaker, the provision in H. R. 10277 amending the definition of "rayon or other synthetic textile" in the Tariff Act would confirm the existing customs practice on the classification of imported articles of the newer manmade fibers such as nylon. These synthetic textiles have in recent years been classified by the Bureau of Customs under schedule 13 of the Tariff Act. This practice is based upon a decision of the United States Customs Court in *Holeproof Hosiery Company v. United States* (27 Cust. Ct. 176).

This amendment is needed because of the uncertainty which has been created by several recent decisions of the Customs Court which, although not directly overruling the *Holeproof Hosiery* decision, have created controversies. In these later cases certain nontextile uses of manmade fibers were held to be dutiable by similitude under other schedules of the Tariff Act. The articles concerned were nylon monofilament fishing line and nylon tennis-racket strings.

I am advised that the Bureau of Customs would view with misgivings future developments which might require a change in its present practice of classification of synthetic textiles under schedule 13. That schedule was adopted in the Tariff Act of 1930 to provide for new manmade fibers which then consisted of the cellulosic fibers rayon and acetate. Later other manmade fibers not derived from cellulose made their appearance. Prior to the *Holeproof Hosiery* decision, the Bureau of Customs in classifying these newer fibers had to search through the Tariff Act for articles which they resembled in use.

This caused the greatest uncertainty in the customs classification of textiles made of the new man-made fibers. Because of the great importance of the *Holeproof* decision in simplifying the customs administration and in bringing certainty into the classification of this tremendously important family of new textile articles, the Bureau of Customs

realistically published a ruling promptly following the Holeproof case which stated that in the future all textile articles of man-made fibers would be classified under schedule 13 in harmony with the Holeproof decision.

Not only is this practice of importance to the Bureau, it is also vital to the welfare of the manufacturers who produce manmade fibers and to the thousands of workers who find employment in this branch of the textile industry. The competitive relationship between their production and the increased importation of such products from abroad is stabilized at rates of duty which have been applied to such imports under schedule 13.

To bring an end to the suggestion of uncertainty created by the decisions which held that nylon fishing line and nylon tennis-racket strings could not be classified under schedule 13, because the definition contained in paragraph 1313 is thought to be limited in its coverage to rayon or acetate, the legislation to which I am addressing this comment was offered.

I wish to emphasize that this provision, if enacted, would call for no change in the existing rate of duty applied to any article. Tariffs would not be increased, nor would they be reduced. Rather, the existing customs treatment, stemming from a practice of basic importance to simplified customs administration, would be ratified and confirmed.

[Mr. CURTIS of Missouri's remarks will appear hereafter in the Appendix.]

Mr. BEAMER. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from Indiana.

Mr. BEAMER. Mr. Speaker, I wonder why a bill that has to do with the importation of 15-inch newsprint rolls would have to contain all this extraneous matter? Is there some explanation of that?

Mr. MILLS. This extraneous matter, as the gentleman describes it, has to do with the tariff laws. The bill as it passed the House likewise had to do with tariff duties, as well. Thus, the amendments are not really extraneous to the subject matter in a general way. The amendments have nothing to do with newsprint, however; but under the rules in another body it would be considered as germane.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. MILLS. I yield to the gentleman from West Virginia.

Mr. BAILEY. Would the gentleman mind explaining what advantage this legislation would have to the wool industry which is a growing industry in my State? It is affected by this bill; is it not?

Mr. MILLS. Not the wool industry, so far as I know. I should like to yield to the gentleman from Virginia [Mr. HARRISON], who is the author of similar legislation, to advise the gentleman from West Virginia [Mr. BAILEY] whether or not the first amendment I discussed had any effect upon the wool industry in his State.

Mr. HARRISON of Virginia. None in the world. It has to do with man-made fabrics.

Mr. MILLS. It has nothing to do with the wool industry?

Mr. HARRISON of Virginia. No, sir.

Mr. BAILEY. I thank the gentleman.

The SPEAKER. The question is on the Senate amendments.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

EXTENDING THE RENEGOTIATION ACT OF 1951 FOR 6 MONTHS

Mr. MILLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 11749) to extend the Renegotiation Act of 1951 for 2 years, as amended by the committee.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. GROSS. Mr. Speaker, reserving the right to object—

Mr. MILLS. Mr. Speaker, will the gentleman from Iowa yield?

Mr. GROSS. I am glad to yield.

Mr. MILLS. The bill as amended by the committee and reported from the committee unanimously would provide for an extension of the Renegotiation Act from December 31, 1958, to June 30, 1959, a period of 6 months, in order that the next Congress might have an opportunity to go fully into the renegotiation program. The administration suggested it should be considered in the next Congress, so we thought, in view of that fact, it would be better not to extend it for a year or two but for 6 months, so the next Congress will have an opportunity to look at it again.

We have also amended the bill to provide for judicial review beyond the Tax Court. We have also provided for those contracts let by the new space agency to be subject to renegotiation.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 102 (c) (1) of the Renegotiation Act of 1951, as amended (50 U. S. C., app. sec. 1212 (c) (1)), is amended by striking out "December 31, 1958" and inserting in lieu thereof "December 31, 1960".

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

"SECTION 1. Six-month extension.

"Section 102 (c) (1) of the Renegotiation Act of 1951, as amended (50 U. S. C., App. sec. 1212 (c) (1)), is amended by striking out 'December 31, 1958' and inserting in lieu thereof 'June 30, 1959'.

"SEC. 2. Application to National Aeronautics and Space Administration.

"(a) In general: Section 103 (a) of the Renegotiation Act of 1951 (50 U. S. C., App.,

sec. 1213 (a)), is amended by inserting 'National Aeronautics and Space Administration,' after 'General Services Administration,'.

"(b) Effective date: The amendment made by subsection (a) shall apply only with respect to contracts entered into by the National Aeronautics and Space Administration and to contracts transferred to such Administration from a department (as defined in section 103 (a) of such Act) under section 301 or section 302 of the National Aeronautics and Space Act of 1958, and to related subcontracts.

"SEC. 3. Judicial review of Tax Court decisions in renegotiation cases.

"(a) In general: The second sentence of section 108 of such act (50 U. S. C., App. sec. 1218) is amended to read as follows: 'Upon such filing such court shall have exclusive jurisdiction, by order, to determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency except that it may be reviewed as provided in subsections (a) and (c) of section 7482 of the Internal Revenue Code of 1954.'

"(b) Conforming amendment: The fourth sentence of such section 108 is amended by striking out 'finally'.

"(c) Effective date: The amendments made by subsections (a) and (b) shall apply with respect to decisions rendered by the Tax Court of the United States after June 30, 1958."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the Renegotiation Act of 1951 for 6 months, and for other purposes."

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, the bill H. R. 11749, amends the Renegotiation Act of 1951 principally by extending the renegotiation authority for 6 months, from December 31, 1958, to June 30, 1959. This continuation of renegotiation beyond its present expiration date has been requested by the President and recommended by the Department of Defense. The bill also provides two substantive changes in the existing act. Renegotiation is provided for the contracts of the new National Aeronautics and Space Administration. In addition, procedure is provided for a review in the higher courts of decisions of the Tax Court in renegotiation cases.

Renegotiation is designed to recapture excessive profits in defense contracts. At the present time, the departments concerned with defense spend close to \$20 billion on procurement with a large portion of this expenditure on items which are subject to renegotiation. Because of the heavy purchases of new weapons and changes in design, it is very difficult to provide prices in the original contract or even in the first price redetermination that will assure Government procurement at prices that are fair both to the contractor and to the Government. The people connected with the procurement in the administration have repeatedly advised the Congress that the only

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AN ACT

72 Stat. 583.

To amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 of the Antidumping Act, 1921 (19 U. S. C. 160), is amended as follows: Antidumping Act, 1921, amend-

(1) By inserting after the second sentence of subsection (a) thereof the following sentence: "For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative." ments.
68 Stat. 113a.
Dumping investi-
gation.

(2) By striking out "he shall forthwith authorize" in subsection (b) and inserting in lieu thereof "he shall forthwith publish notice of that fact in the Federal Register and shall authorize". Notice in F.R.

(3) By adding at the end of such section the following new subsection:

"(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative." Decisions and
reports in F.R.

SEC. 2. Subsections (b) and (c) of section 202 of the Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are amended to read as follows: Special dump-
ing duty.

"(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to— Foreign market
value.
Determination.

"(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value, Post, p. 586.

then due allowance shall be made therefor.

"(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for

sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

“(2) other differences in circumstances of sale, or

“(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.”

SEC. 3. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

“FOREIGN MARKET VALUE

“SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.”

SEC. 4. (a) The heading and text of section 206 of the Antidumping Act, 1921 (19 U. S. C. 165), are amended to read as follows:

“CONSTRUCTED VALUE

“SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

“(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the

date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

“(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

“(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

“(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c). Transaction.

“(c) The persons referred to in subsection (b) are:

“(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

“(2) Any officer or director of an organization and such organization;

“(3) Partners;

“(4) Employer and employee;

“(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

“(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.”

(b) Sections 201 (b), 202 (a), 209, and 210 of the Antidumping Act, 1921 (19 U. S. C., secs. 160 (b), 161 (a), 168, and 169), are amended by striking out “cost of production” each place it appears and inserting in lieu thereof “constructed value”. 42 Stat. 11, 15.

SEC. 5. Section 212 of the Antidumping Act, 1921 (19 U. S. C. 171), is renumbered as section 213, and such Act is amended by inserting after section 211 the following: 42 Stat. 15.

“DEFINITIONS

“SEC. 212. For the purposes of this title—

“(1) The term ‘sold or, in the absence of sales, offered for sale’ means sold or, in the absence of sales, offered—

“(A) to all purchasers at wholesale, or

“(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

“(2) The term ‘ordinary course of trade’ means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

“(3) The term ‘such or similar merchandise’ means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

“(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

“(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

“(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

“(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

“(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

“(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

“(4) The term ‘usual wholesale quantities’, in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.”

Applicability.

SEC. 6. The amendments made by this Act shall apply with respect to all merchandise as to which no appraisalment report has been made on or before the date of the enactment of this Act; except that such amendments shall not apply with respect to any merchandise which—

(1) was exported from the country of exportation before the date of the enactment of this Act, and

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(2) is subject to a finding under the Antidumping Act, 1921, 42 Stat. 15. which (A) is outstanding on the date of enactment of this Act, 19 USC 171. or (B) was revoked on or before the date of the enactment of this Act, but is still applicable to such merchandise.

Approved August 14, 1958.

